

Appeal Inquiry

Decision

In the matter of an appeal from a disciplinary hearing held under the Convention Against Doping in Sport Act No. 33 of 2013

Sri Lanka Anti-Doping Agency, No. 363/12,
Sugathadasa Stadium – Block D, Stadium Parking
Road, Sirimavo Bandaranayaka Mawatha, Colombo
13.

AGENCY

and

W.N.S. Kumara Wedagedara

ATHLETE

And now between

W.N.S. Kumara Wedagedara

APPELLANT ATHLETE

and

Sri Lanka Anti-Doping Agency

RESPONDENT-AGENCY

Mr. Sumathi Dharmawardena PC

Chairman


Mr. Upali Samaraweera

Member

Dr. Asela Mendis

Member

Page 1 of 6

Two handwritten signatures in blue ink are located at the bottom right of the page. The first signature is a long, horizontal stroke followed by a loop and a vertical line. The second signature is a stylized, cursive 'M' or similar character.

On this 11th day of March 2021

Case of W.N.S. Kumara Wedagedara

Facts of the Case

1. Mr. W.N.S. Kumara Wedagedara (hereinafter referred to as the "Athlete") was **tested on 24.02.2019** as an **"in competition testing"** at the **First Athletic Selection Trial Competition 2019**. The Number assigned to his urine sample is 4411508. The Athlete signed a Doping Control Form ("X1") in which he acknowledged that his urine sample collection was carried out in accordance with the relevant procedure laid down in the WADA Code. In the said form, under "Declaration of Medication and Blood Transfusions" the Athlete has stated "Electroride".
2. The Athlete's urine sample (bearing sample No. 4411508) was sent to the National Dope Testing Laboratory (NDTL) in India (a WADA accredited laboratory). SLADA received the Report ("X2") of the said sample on 09.05.2019. The **Sample A was found to be positive** and the report states that **"Adverse Analytical Finding for 19-Norandrosterone (Metabolite of Nandrolone or its precursor) at a concentration greater than 15ng/ml, anabolic steroid."**
3. The presence of the prohibited substances in an athlete's urine sample *prima facie* constitutes an Anti-Doping Rule Violation under Article 2.1 of the WADA Code.

Preliminary Inquiry


4. In the event of a positive result, the Athlete should be given the opportunity to face a Preliminary Inquiry to state whether he wished to request for the testing of the B sample within the prescribed period of seven days starting from the date appeared on the testing Report ("X2").
5. In this case, both the accused Athlete Mr. WNS Kumara Wedagedara and the Secretary of the Sri Lanka Athletic Association were informed by the letters dated 10.05.2019 ("X3" and "X4") of the results of the laboratory test Report and also asked the Athlete to participate in the Preliminary Inquiry for the B sample analysis.



6. Accordingly, the Athlete Mr. WNS Kumara Wedagedara reported to Sri Lanka Anti-Doping Agency on 16.05.2019. The accused Athlete came on his own without any representation for him and faced the Preliminary Inquiry where **the Athlete submitted his consent in writing** by letter dated 16.05.2019 (“X5”) that **he is not going for the analysis of his Sample B.**

Disciplinary Inquiry

7. The Disciplinary Inquiry regarding doping rule violation by the accused Athlete Mr. WNS Kumara Wedagedara was conducted by Sri Lanka Anti-Doping Disciplinary Panel on 04.10.2019.
8. At the Disciplinary Inquiry, the accused Athlete gave evidence and accepted the fact that a doping charge has been levelled against him and he denied the charge on the basis that he had never taken any prohibited substance intentionally.
9. The Athlete had informed SLADA regarding his consent not to proceed with the B sample analysis.
10. However, at the Disciplinary Inquiry the accused Athlete **did not submit facts and circumstances for mitigating sanctions that maybe imposed** after an adverse analytical finding of his urine sample. **Nor did the Athlete take up any other defense or preliminary objection to the charges levelled against him.**
11. Furthermore, the accused Athlete **has failed to submit a TUE.**
12. Disciplinary Inquiry Panel upon analysis of the evidence placed before it established as follows.
 - On the face of the facts of the Laboratory Report (“X2”), Adverse Analytical findings are consistent with the endogenous of 19-Norandrosterone (Metabolite of Nandrolone or its precursor) has been reported by the NDTL in respect of the urine Sample A of the accused Athlete.
 - In terms of *Article 2.1* of the WADA Code,

The image shows three handwritten signatures in blue ink. The first signature is a simple horizontal line. The second signature is a stylized, looped mark. The third signature is a more complex, cursive mark.

“It is each athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the Athlete’s part be demonstrated in order to establish an anti-doping violation under Article 2.1”

- Further within the meaning of required standard of proof set out in Article 3.1 of the WADA Code, the relevant charge against the accused Athlete for the violation of Article 2.1 of the WADA Code has been established to the comfortable satisfaction of proof.
- In respect of Article 10.2.1 of the WADA Code, the period of ineligibility shall be Four (4) years for a violation of Article 2.1 Code unless the anti-doping rule violation does not involve a specified substance, or the violation was unintentional in which case the period of ineligibility shall be Two (2) years.
- The substance “19-Norandrosterone (Metabolite of Nandrolone or its precursor), Anabolic Androgenic Steroid” which is reported to be present in the Sample A of the accused Athlete is an Anabolic Steroid and is included in the Prescribed Class AAS endogenous in the WADA Prohibited List 2018 and 2019 both.
- Accordingly, the Sri Lanka Anti-Doping Disciplinary Panel found that the accused Athlete violated the Article 2.1 of the WADA Code in having prohibited substances in his urine Sample A.
- WADA Code imposes “strict liability” on an athlete notwithstanding athlete’s intention or knowledge of administering prohibited substances into one’s body and imposes sanctions merely on the basis that the prohibited substance was found in his body.

13. Thereby the Sri Lanka Anti-Doping Disciplinary Panel unanimously imposed a sanction of Four (4) years ineligibility period on the Athlete commencing from 24.02.2019 and up to 23.02.2023.



Grounds of Appeal

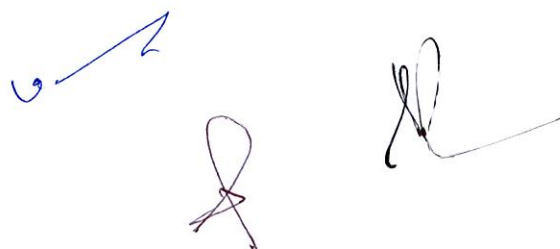
On the ground of being aggrieved by the decision of the Disciplinary Inquiry dated 16th January 2020, Mr. WNS Kumara Wedagedara (hereinafter referred to as the "Athlete-Appellant") appealed before the Honourable Appeal Panel of Sri Lanka Anti- Doping Agency under the Convention against Doping in Sports Act No.33 of 2013.

The Athlete-Appellant submitted a Petition of Appeal within 14 days after receiving the Disciplinary Inquiry Decision as per Section 26(1) (a) of the Convention Against Doping in Sports Act No. 33 of 2013.

The Athlete-Appellant, (received by the Sri Lanka Anti-Doping Agency on 06.02.2020) states as follows.

- The Disciplinary Inquiry he mentioned regarding the intake of a nutritional supplement (Vitamin Rash) and that he took it inadvertently. He further states he admitted the fault on his part in having taken such supplement.
- The Athlete-Appellant points out that the WADA -accredited laboratory in New Delhi, India (NDTL) was suspended during the time of the Disciplinary Inquiry, for some non-conformities with the International Standard for Laboratories (ISL).
- He further states that National Institute of Sports Science does not recommend any nutritional supplement hence none of the Sri Lankan athletes generally informed the relevant authorities/ units regarding the intake of any nutritional supplement as it would be of no use.
- He further states that it is inadequate to only take three meals...

The Appeal Panel considered the submissions made by the Appellant and decides as follows. This Appellant had failed to make any submissions to the effect that WADA suspended NDTL in India and due to the failure by the said NDTL to maintain required ISL, the analytical findings made by



the said NDTL is factually incorrect. there are grounds to challenge that the testing laboratory had failed to follow the required ISL.

The Appellant in the Doping Control Form he had stated that he used a medication called *Electroride*. The Appellant had failed to discharge the burden rested on him to the effect that the Respondent SLADA had failed to follow the procedures set out in the WADA code with regard to testing. Further Appellant has granted his consent not to proceed with Analysis of his B sample. On consideration of the evidence placed before the Appeal Panel it appears that the Appellant has failed to prove to the comfortable satisfaction that the Respondent had failed to adhere into the provisions of the WADA code.

Considering the above reasons, the Appeal Panel decided to reject the Appeal.




Sumathi Dharmawardena PC

Chairman

I agree.



Mr. Upali Samaraweera

Member

I agree.



Dr. Asela Mendis

Member