

BEFORE THE ANTI-DOPING DISCIPLINARY PANEL
J.L.N. Stadium, Lodhi Road, New Delhi 110 003

Case No. 233/ADDP/2023
Case No112ADDP/2024

In the matter of Mr. Parvez Khan (Sports- Athletics Middle Distance 800-1500m) for violation of Articles 2.1, 2.2 and 2.4 of the National Anti-Doping Rules, 2021.

(PROCEEDING CONDUCTED THROUGH VIDEO MODE)

Quorum: Ms. Charu Pragya, Chairperson
Dr. Bikash Medhi, Member
Ms. Archana Surve, Member

Present: Mr Saurabh Mishra, Advocate with the Athlete Mr. Parvez Khan
Mr. Yasir Arafat, Law Officer for NADA

J U D G E M E N T

1. The present proceedings before this Anti-Doping Disciplinary Panel (“**this panel**”) emanate from the Adverse Analytical Finding (“**AAF**”) and Whereabouts Failures against the Athlete Mr. Parvez Khan who is a National Level Athletics Player and his date of birth as stated by him in the Doping Control Form (“**DCF**”), is 26.12.2004.

A. The brief facts of the Whereabouts Failure case are as follows:

- i. That on 10.12.2022, the Athlete was notified of his inclusion in NADA Registered Testing Pool (“**NRTP**”), the obligations stemming from such inclusion and the consequences of any failure to comply with the whereabouts requirements as set forth in the ADR,2021.
- ii. The Athlete committed the following alleged missed tests:
 - a) Missed test on 12.05.2023;
 - b) Missed test on 10.07.2023;
 - c) Missed test on 05.12.2023;

I. MISSED TEST- 12.05.2023 ("FIRST WHEREABOUTS FAILURE")

a) That on 12.05.2023, the Athlete failed to make himself available for Testing during the 60-minute time slot indicated in his Whereabouts Filings for that day. The Doping Control Officer ("DCO") submits the Unsuccessful Attempt Report, wherein it is stated that the Athlete could not be located at Room No. 109, Men's National Campers Hostel, Sports Authority of India, SAI NS, Bangalore, Karnataka, India 560056 for the out-of-competition doping control test. The DCO stated that the door was locked, he attempted to phone call to the Athlete but there was no response from the Athlete's side. Further stated that Coach Dr. Kalyan informed Athlete Mr. Parvez Khan has gone to the USA for Training. The athlete was notified on 29.05.2023 of the unsuccessful attempt and that it constituted a potential Missed Test and was invited to provide his explanation. The Athlete accepted his mistake for not updating his whereabouts on ADAMS, and this resulted in a Missed Test being recorded against him on 30.06.2023. The Athlete did not request an administrative review of the decision to record the Missed Test.

II. MISSED TEST- 10.07.2023 ("SECOND WHEREABOUTS FAILURE")

a) That on 10.07.2023, the Athlete failed to make himself available for Testing during the 60-minute time slot indicated in his Whereabouts Filings for that day. The Doping Control Officer ("DCO") submits the Unsuccessful Attempt Report, wherein it is stated that the Athlete could not be located at Room No. 109, Men's National Campers Hostel, Sports Authority of India, SAI NS, Bangalore, Karnataka, India 560056 for the out-of-competition doping control test. The DCO stated that the door was locked, he made to phone call to the Athlete, he said he went to Kochi for Navy Duty. The athlete was notified on 01.08.2023 of the unsuccessful attempt and that it constituted a potential Missed Test and was invited to provide his explanation. The Athlete accepted his mistake for not updating his

whereabouts on ADAMS, and this resulted in a Missed Test being recorded against him on 19.09.2023. The Athlete did not request an administrative review of the decision to record the Missed Test.

III. MISSED TEST- 05.12.2023 ("THIRD WHEREABOUTS FAILURE")

- a) The Athlete was unavailable for Testing during the designated 60-minute time slot specified in his Whereabouts Filings for that day. The Doping Control Officer (DCO) submitted an Unsuccessful Attempt Report, indicating that the Athlete could not be found at House No. 166, Near Swastik Farm House, Village Chakalaka, Post Sundh, Taura, Nuh, Haryana, for the out-of-competition doping control test. The DCO reported that after ringing the doorbell multiple times, a person named Mr. Khalid Husain came to the door and stated that Mr. Parvez Khan had gone to Rohtak for sports events with his brother. The Athlete was notified on 04.04.2024 about the unsuccessful attempt, which constituted a potential Missed Test, and he was invited to provide an explanation. The Athlete on 18.04.2024 explained that he was 100 kilometres away from the specified location when the DCO arrived for the test, as his brother was participating in a sports event in the State Games. He also noted that he had already completed a doping control test on that day, which returned negative results, and requested that this incident not be recorded as his third missed test, since he had already accumulated two missed tests previously. The Athlete on 27.05.2024 requested an administrative review of the decision to record the Missed Test. The administrative review report dated 25.10.2024 concluded that all criteria for a Missed Test were met, leading to the decision to record a missed test on 11.11.2024.
- b) Notification was issued to the Athlete on 27.11.2024 informing the Athlete that he had committed an ADRV. Subsequently, a Notice of Charge for violation of

Article 2.4 of the ADR was issued to the Athlete. The said notice informed the Athlete that, at this stage, he had failed to establish that no negligent behaviour caused or contributed to the First, Second and/or Third Whereabouts Failures and that there were no mitigating factors justifying a departure from the standard applicable period of Ineligibility of two years.

B. The brief facts of the Adverse Analytical Finding (AAF) case are as follows:

- a) The athlete doping control test was conducted during 63rd National Inter-State Senior Athletics Championship 2024 by the Doping Control Officer of NADA at Panchkula, Haryana on 27.06.2024 & 28.06.2024 and the samples were split into two separate bottles A and B with unique codes “**8132842, 1423136 and 1423441**”.
- b) Samples A of **8132842, 1423136 and 1423441** of the Athlete were tested at the National Dope Testing Laboratory (NDTL), Delhi in accordance with the procedures set out in WADA’s International Standards for Laboratories and were returned with an Adverse Analytical Findings (“AAF”) for S2 ***Erythropoietin (EPO)- Peptide Hormones, Growth Factors, Related Substance and Mimetics***. The said substance is listed under S2 of WADA’s Prohibited List which is a non-specified substance.
- c) Pursuant to Article 7.2.1 of ADR, the initial review of samples A showed that the Athlete did not have Therapeutic Use Exemption (TUE); there was no apparent departure from the International Standard for Testing and Investigations (‘ISTI’) or the International Standard for Laboratories (‘ISL’) that could undermine the validity of the AAF; and the AAF had not been caused by ingestion of the relevant Prohibited Substance through a permitted route insofar as “Erythropoietin (EPO) Peptide Hormones, Growth Factors, Related Substance and Mimetics” is banned irrespective of the route of ingestion.

- d) Notification was issued to the Athlete on 28.08.2024 informing him about the presence of a prohibited substance in his sample causing adverse analytical findings. The athlete was also informed that he was provisionally suspended from participating in any further sporting events till the conclusion of disciplinary proceedings pending against him. Through the said notification the athlete was also informed about his rights and that in case the athlete is unwilling to accept the result of Sample A, he has the right to request the opening of Samples B at his own cost.
- e) The Athlete waived off his right towards 'B' sample opening and analysis on 02.09.2024.
- f) The Notice of Charge was issued to the Athlete on 14.05.2025 and the final opportunity to submit an explanation was granted to the Athlete.
- g) The Athlete was notified through a letter dated 26.05.2025 that a Hearing Panel has been constituted to address the alleged anti-doping rule violations. The notification informed the Athlete of his right to respond to the charges and the potential consequences. It also indicated that the Athlete could submit written submissions, along with all supporting documents, to the Anti-Doping Disciplinary Panel.
- h) In the disciplinary proceedings held on 09.07.2025, the parties addressed their respective arguments, following which the judgment was reserved.

Submissions of the Athlete:

2. The counsel for the athlete, Mr. Saurabh Mishra, appeared before the panel and contended that the missed test dated 05.12.2023 of the quarter from (October to December 2023) should not be considered a missed test. It was argued that the athlete underwent testing on the same day in question, and the results of that test returned

negative. Consequently, the counsel asserted that the missed test should not be recorded as a violation, and it does not constitute a violation of Article 2.4 of the Anti-Doping Rules of 2021.

3. In response to inquiries regarding the presence of a prohibited substance, the counsel expressed a lack of awareness concerning any findings of such substances in the athlete's sample.
4. Furthermore, the counsel referenced the judgment rendered National Anti-Doping Appeal Panel in the matter of Ms. Seema Bisla, which led to a sanction of one year of ineligibility based on similar facts and circumstances relevant to the present case.

Submissions of the NADA:

5. NADA submits that under Article 2.1 of the Anti-Doping Rules, 2021, it is the Athlete's personal duty to ascertain that the drug/supplement consumed/injected/administered by him does not contain any prohibited substance. The athlete, in the present case, has failed to exercise due care and caution and therefore attracts the applicability of the 'strict liability' principle.
6. NADA submits that the Athlete has failed to establish how the prohibited substance entered her body. Accordingly, a doping violation has occurred, and the Athlete is liable for a sanction under Article 10.2.1 of the Rules.
7. NADA further submits that the additional violation of whereabouts failures has been established because the Athlete has committed three (3) missed tests within a twelve (12) month period.
8. As defined in the ISRM, if an Athlete is not available for Testing during their specified 60-minute time slot at the location specified for that time slot for that day, they will be liable for a Missed Test even if they are located later that day and a Sample is

successfully collected from them. Therefore, violation of Article 2.4 has occurred, and he shall be liable for a sanction under Article 10.3.2 of the Rules.

9. NADA further submits that the athlete has committed an additional anti-doping rule violation prior to the issuance of notification concerning the first violation. Notably, this subsequent violation occurred within a 12-month timeframe following the first violation. Consequently, NADA argue that Article 10.9.3.2 is applicable in this case and the period of ineligibility shall be calculated as if it were treated as a single ADRV under Article 10.9.3.1 of the Rules.

Observation and findings of Panel: -

10. We have carefully considered the arguments put forth by the Athlete and the arguments made by NADA. We have also reviewed the available material on record that was shared with us.
11. It is undisputed that the Athlete's Sample has tested positive for Erythropoietin (EPO) Peptide Hormones, Growth Factors, Related Substance and Mimetics which is a non-specified substance as per WADA's 2024 Prohibited List. As per Article 2.1 of the Anti-Doping Rules 2021, it is the personal duty of every athlete to ensure that no prohibited substance, as defined, enters his or her body. Reference may also be made to Article 2.1.2 which provides that presence of a prohibited substance or its metabolites is sufficient proof of anti-doping rule violation where the Sample A returns an adverse finding and the athlete waives off the analysis of Sample B. In the present case, the Athlete has not requested for analysis of Sample B and is thus deemed to have accepted the finding contained in Sample A.
12. Where a sample testing returns a positive finding, the onus is on the athlete to explain how the substance entered her body. Fault, negligence or knowing use are not relevant

considerations that are needed to be proved while making a case for anti-doping violation. The liability cast on the athlete is thus strict.

13. The Athlete bears the burden of establishing that the violation was not intentional. Many decisions by the Court of Arbitration for Sport (CAS) have made it clear that the Athlete must explain how the banned substance got into their body. If the Athlete cannot show this, it confirms that a violation of the Anti-Doping Rules has occurred under Articles 2.1 and 2.2. This means that the Athlete may face penalties for the doping violation, regardless of their intent.
14. Regarding whereabouts failures, we do not agree with the Athlete submissions seeking a reduction of sanctions to a minimum of one year since the Athlete has missed three out-of-competition tests. It is ultimately the Athlete's responsibility to ensure that accurate and current whereabouts information is provided on the ADAMS portal. Additionally, it is crucial to acknowledge that the whereabouts system plays a vital role in identifying doping practices in sport, as it allows for the unannounced location of athletes for out-of-competition testing.
15. The Panel finds that the violation of Article 2.4 is based on three instances of missed tests, and the judgment cited by the Athlete is inapplicable to the present matter. The athlete fault in respect of each of the missed tests is significant and the case demands the imposition of the standard two-year period of ineligibility.
16. The Panel also notes that the athlete has committed an additional anti-doping rule violation prior to the issuance of notification concerning the first violation within a 12-month timeframe following the first violation. Consequently, the period of ineligibility shall be calculated for both violations, which shall be six (6) years.
17. **In view of the facts and circumstances stated above, the Panel holds that the Athlete is liable for sanctions under Article 10.2.1.1 read with 10.9 and liable for**

ineligibility for 6 years. In the present case, since the Athlete had been provisionally suspended, the Panel accordingly holds that the Athlete's period of ineligibility for 6 years shall commence from the date on which the notification was sent, i.e., 28.08.2024.

18. We also direct that under Article 10.10, all other competitive results obtained by the athlete from the date of sample collection, i.e., 27.06.2024, shall be disqualified with all resulting consequences, including forfeiture of medals, points, and prizes.

Dated: 06.08.2025



Ms. Charu Pragya
(Chairperson)



Dr. Bikash Medhi
(Medical Member)



Ms. Archana Surve
(Sports Member)