

Anti-Doping Disciplinary Panel

J.L.N Stadium, Gate No. 10 Hall No.103
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Telefax : 011-24368274

To,

Date: 05.12.2023

Ms. Pooja Dhanda
R/o 75-A, Sundar Nagar,
Hissar, Haryana
India - 125001
Email: poojadhanda0007@gmail.com

Subj: Decision of the Anti Doping Disciplinary Panel Case No.- 131. ADDP.2023

NADA VS. MS. POOJA DHANDA (ADAMS ID: - DHPOFA73829)

The order containing the decision of the Anti-Doping Disciplinary Panel dated 05.12.2023 in respect of final hearing of the above case held on 06.10.2023 is enclosed.

Please note that according to Article 13.2.2 of Anti-Doping Rules of NADA 2021, **the time to file an appeal to the National Anti-Doping Appeal Panel shall be twenty-one (21) days from the date of receipt of this decision by the appealing party.** The appeal may be filed at the abovementioned address.

Also please note that according of Article 10.7.1- (**Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations**)- Any period of Ineligibility imposed may be partially suspended if you assist NADA in uncovering and/or establishing an ADRV by another Athlete or Athlete Support Personnel pursuant to Article 10.7.1 ADR. Further, the athlete is subjected to doping control test during the ineligibility period, therefore, athlete is required to update his residential address as and when changed.

Copy of the NADA Anti-Doping Rules 2021 may be downloaded from NADA website at the following link:-www.nadaindia.org/en/anti-doping-rule-of-nada

The receipt of this communication may be acknowledged.

Encl: 07 sheets



(Yasir Arafat)

Senior Programme Associate

Copy forwarded together with the copy of the order containing the decision of the Anti-Doping Disciplinary Panel for information and action deemed necessary:

1. World Anti-Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suit 1700) P. O. Box 180, Montreal (Quebec), H4Z 1B7, Canada.
2. General Secretary, Wrestling Federation of India, 21, Ashoka Road, New Delhi.
3. United World Wrestling, Rue du Chateau 6 1804, Corsier, Switzerland.
4. National Anti-Doping Agency, J.L.N Stadium, 1st Floor, Hall No. 104, Lodhi Road, New Delhi, 110003.

BEFORE THE ANTI DOPING DISCIPLINARY PANEL

In the matter of Ms. Pooja Dhanda for violation of Articles 2.4 of National Anti-Doping Rules, 2021

(PROCEEDINGS CONDUCTED THROUGH VIRTUAL MODE)

Quorum: Ms. Charu Pragya, Chairman
Dr. Manik S. Ghadlinge, Member
Ms. Abantika Deka, Member

Present: Ms. Pooja Dhanda, Athlete
Mr. Vidushpat Singhania, Counsel for Athlete
Mr. Achyuth Jayagopal, Counsel for Athlete
Ms. Manpreet Kaur Bhasin, Counsel for NADA

J U D G E M E N T

05.12.2023

1. The present proceedings before this Anti-Doping Disciplinary Panel (“**this Panel**”) emanate from Anti-Doping Rule Violation (“**ADRV**”) by Ms. Pooja Dhanda (“**the Athlete**”) of Article 2.4 of the Anti-Doping Rules. The athlete is a “Wrestling Player.
2. Brief Facts of the case are as follows:
 - i. Ms. Pooja Dhanda (“the Athlete”) was included of the NADA’s RTP for the year of 2022 vide an email dated 25 February, 2022. She was informed of her obligations as a Registered Testing Pool (RTP) Athlete to file quarterly whereabouts information and that she must be available for Testing during her identified 60-minute time period each day. NADA recorded two (2) Filing Failures and one (1) Missed Test against the Athlete. As the Athlete accumulated three (3) Whereabouts Failures in a twelve (12) month period, the NADA asserted an ADRV pursuant to Rule 2.4 (Whereabouts Failures by an Athlete).
3. **Whereabouts Failures:**
 - i) (**1st Filing Failure- Q3-2022 (July to September)**) – That on 6th July 2022, the NADA issued an apparent Filing Failure letter for Q3 (July to September)

to the Athlete seeking explanation for filing failures within 14 days. Subsequently, on November 26, 2022 on account of non-receiving of any explanation from the Athlete, NADA proceeded with declaring a Filing Failure against the Athlete with the right to seek administrative review of its decision declaring a Filing Failure against the Athlete within a period of 7 days. On 28th November, 2022, the Athlete requested an administrative review, which was conducted by a person not previously involved in the assessment of the apparent Filing Failure and in accordance with the International Standard for Results Management (ISRM). On 31st December 2022, NADA notified the Athlete of the administrative review decision which confirmed a Whereabouts Failure (Filing Failure) against the Athlete.

ii) (2nd Filing Failure- Q4-2022 (October to December)) – On 21st October 2022, NADA issued an apparent Filing Failure letter for Q4 (October to December) to the Athlete seeking explanation for filing failures within 14 days. Subsequently, on 11 November 2022 on account of non-receiving of any explanation from the Athlete, NADA proceeded with declaring a Filing Failure against the Athlete with the right to seek administrative review of its decision declaring a Filing Failure against the Athlete within a period of 7 days. On 17 November, 2022, the Athlete requested an administrative review, which was conducted by a person not previously involved in the assessment of the apparent Filing Failure and in accordance with the International Standard for Results Management (ISRM). On 31st December 2022, the NADA notified the Athlete of the administrative review decision which confirmed a Whereabouts Failure (Filing Failure) against the Athlete.

iii) Third (Missed Test- Q4-2022 (October to December)) On 29th December, 2022, the NADA issued an apparent Missed Test letter to the Athlete, indicating that she was facing a potential third Whereabouts Failure for not being available and accessible for Doping Control during her 60-minute time slot on 21 December 2022 at 10:00 Hrs. at 75-A, Sundar Nagar, Hisar, Haryana

125001. Based on the Athlete's response, the NADA issued an alleged Missed Test letter, in which the Athlete was notified of her right to request an administrative review. On 9th January 2023, the Athlete submitted all documentation that she wanted included as part of a requested administrative review. The administrative review was conducted by a person not previously involved in the assessment of the apparent Missed Test and in accordance with the ISRM. On 25 May, 2023, the NADA notified the Athlete of the administrative review decision which confirmed a third Whereabouts Failure (Missed Test) against the Athlete.

- iv) That vide the notice of charge dated 15th June 2023, the Athlete has been charged for violation of Article 2.4 of ADR for combination of three (3) missed tests and or/filing failures within a twelve (12) months period by an Athlete in a Registered Testing Pool.
- v) The submissions made by the Athlete are reproduced herein:
 - a) That the Athlete is not guilty of commission of anti-doping rule violation because as per Article 2.4 there must be three (3) Filing Failures/Missed Tests within a twelve (12) month period. The filing failure notified to the Athlete on 21.10.2022 and recorded in 31st December, 2022 must be cancelled because ADAMS profile indicate that she had already made entries for Q-4 2022 in the month of October prior to receiving the notice of filing failure. It is further added that when the Athlete attempted to update her whereabouts information for Q-4, an error on the ADAMS application precluded her from doing so. The Athlete had raised this issue with NADA vide an email date 28.11.2022 that her whereabouts information was not recorded in the WADA ADAMS application.
 - b) That the additional factors with respect to delay in the result management process including the procedure adopted for Administrative Review were against the principal of natural justice.
 - c) It is further submitted that 1st & 2nd Filing Failure (FF) were notified to the Athlete on 22.10.2022 and it was recorded on 31.12.2022, after a period of more

than five (5) months. Although, it recorded on the same day despite a gap of 3 months between each other.

- d) That 3rd missed test had occurred due to her travel plan to Vishakhapatnam, Andhra Pradesh for participating in the Senior National Wrestling Championship held from 21.12.2022 to 23.12.2022 and which the Athlete had omitted to update. However, as an alternative, the Athlete even offered to be available and provide her sample in Rohtak or Delhi on 21.12.2022 itself shows her bonafide.
- e) It was argued that the mode of notification followed by NADA was not in compliance with WADA ISRM, the relevant provision B.2.1 An Athlete may only declare to have committed a Filing Failure where the Result Management Authority establishes each of the following: *“In the case of a second or third FF, that they were given notice, in accordance with Article B.3.2 (d), of the previous Filing Failure, and (if that Failure revealed deficiencies in the Whereabouts Filing that would lead to further Filing Failure if not rectified was advised in the notice that in order to avoid a further Filing Failure, they must file the required Whereabout Filing (or update) by the deadline specified in the notice (which must be within 48 hrs after receipt of the notice) and yet failed to rectify that Filing Failure by the deadline specified in the notice”*.
- f) Lastly, it was submitted that the Athlete has no fault or Negligence or No Significant Fault, therefore, she is entitled for elimination of the period of ineligibility. Alternatively, in totality of the fact and circumstances of the case, the Panel may consider the the degree of fault of the Athlete to be a lower degree owing to the lack of negligent conduct on behalf of the Athlete, and that a period of ineligibility of only 0-6 months may be imposed on the Athlete.

6. Submissions by NADA

- a) NADA during the proceedings submitted that 3 Filing failures/Missed Tests were recorded against the Athlete in the period of 12 months which have been listed below:

Sr. No.	Quarter	Whereabouts Filing Failure/ Missed Test
1.	Q3 July to September, 2022	The Athlete had not submitted any Whereabouts Filings for this quarter.
2.	Q4 October to December, 2022	The Athlete had submitted her Whereabouts Filings for Q4 with delay on 17.10.2022.
3.	Q4 October to December, 2022	A Missed Test was recorded on 21.12.2022, when the Athlete was not available at the given location, at the given time and the DCO could not collect the sample of the Athlete.

- b) NADA submits that the onus is on the Athlete to make sure that her whereabouts information is fully updated and accurate. The Athlete has failed in this obligation. As per ISTI Article 4.8.8.5, which says: *“It is the Athlete’s responsibility to ensure that they provide all of the information required in a Whereabouts Filing as outlined in Articles 4.8.8.2 and 4.8.8.3 accurately and in sufficient detail to enable any Anti-Doping Organization wishing to do so to locate the Athlete for Testing on any given day in the quarter at the times and locations specified by the Athlete in their Whereabouts Filing for that day, including but not limited to during the 60- minute time slot specified for that day in the Whereabouts Filing”*.
- c) NADA submits that the Athlete 2nd Whereabouts Filing Failure was recorded because the Athlete has not filed her whereabouts information on time. On 21.10.2022, NADA had written email to notify her of her apparent filing to comply with the Whereabouts Filing requirements for Q4 – October to

December 2022 and to seek her comments before arriving at a final decision on the matter. That pursuant to the expiry of the deadline, the NADA had issued another e-mail dated 11.11.2022 thereby informing her that since no response had been received from the Athlete within the time provided, therefore it has been decided to take the matter of Whereabout filing failure forward as per the consequences clearly set out in the earlier e-mail dated 21.10.2022. That in this email, the Athlete was informed about her right to request an administrative review of this decision in order to determine whether or not all of the elements of a filing failure specified in the Article B.2.1 of the International Standard for Result Management are present. It is pertinent to mention here that the Athlete was asked to respond within a period of 7 days if she wished a review to take place or else office of the Respondent would proceed to record a Filing Failure against her. Subsequently, a review was carried out to determine whether all the elements of a Filing Failure as set out in the ISRM Article B.2.1 were present or not. Pursuant to the review, it was concluded that all the elements of a filing failure specified in ISRM Article B.2.1 were present, therefore the 2nd Whereabouts Failure was recorded against the Athlete on 31.12.2022.

7. Observations and Findings of the Panel

- a) We have heard the arguments made by the Athlete and her Counsel, arguments by NADA and perused the available material on record shared with us.
- b) Article 2.4 of the Rules provide *“Any combination of three missed tests and/or filing failures, as defined in the International Standard for Results Management, within a twelve-month period by an Athlete in a Registered Testing Pool”*
- c) The defence of the athlete for attempted to update her whereabouts information for Q-4 (October to December 2022) was not recorded in the ADAMS due to an error of double entries in the ADAMS is not accepted because the onus is on the Athlete to make sure that her whereabouts information is fully updated and accurate in terms of Article 4.8.8.5 of ISTI. The Athlete has failed in this obligation. *“ISTI Article 4.8.8.5 says: It is the Athlete’s responsibility to ensure that they provide all of the*

information required in a Whereabouts Filing as outlined in Articles 4.8.8.2 and 4.8.8.3 accurately and in sufficient detail to enable any Anti-Doping Organization wishing to do so to locate the Athlete for Testing on any given day in the quarter at the times and locations specified by the Athlete in their Whereabouts Filing for that day, including but not limited to during the 60- minute time slot specified for that day in the Whereabouts Filing”

- d) The Panel is of the view that there is a failure under Article 2.4 of Anti-Doping Rules 2021 whereby the Athlete has failed to submit her 1st whereabouts information for Quarter 3 (July to September, 2022) and belatedly submitted her 2nd whereabouts information for Quarter 4 (October to December 2022) and also the 3rd missed test for Quarter 4 (October to December 2022) within the time specified which is in contravention of Article 4.8. 8.3 of International Standard for Testing & Investigation. (ISTI). Therefore, the Athlete has committed an anti-doping rule violation (Whereabouts Failure) under Article 2.4 of the Rules for having three (3) missed tests and/filing failures within a twelve (12) month period.
- e) The Panel holds that the Athlete is liable for sanction under Article 10.3.2, the Panel considered that the athlete negligently failed to comply with the filing requirements and her case falls within the light degree of fault and the period of Ineligibility shall be one (1) year.
- f) In view of the facts, circumstances and rules mentioned above, it is held that the Athlete has violated Article 2.4 of the ADR, 2021 and **she is hereby sanctioned with an ineligibility period of one (1) year from the date of provisional suspension i.e., 15.06.2023.**

The matter is disposed of, accordingly.



Ms. Charu Pragya



Dr. Manik S. Ghadlinge



Ms. Abantika Deka