



Arbitration CAS ad hoc Division (OG Rio) 16/028 Behdad Salimi & National Olympic Committee of the Islamic Republic of Iran (NOCIRI) v. International Weightlifting Federation (IWF), award of 21 August 2016

Panel: Mrs Carol Roberts (Canada), President; Mrs Margarita Echeverria (Costa Rica); Mr Mohammed Abdel Raouf (Egypt)

Weightlifting

Decision of the Jury overturning a decision of the referees

Field of play decision

CAS jurisprudence has consistently reaffirmed that CAS arbitrators do not overturn the decisions made on the playing field by judges, referees, umpires or other officials charged with applying the rules of the game unless there is some evidence, which generally must be direct evidence that the rule was applied in arbitrarily or in bad faith. CAS arbitrators are not specifically trained in the rules of any or all sports and do not have the advantage of being present to observe the events. It would be unfair to a decision-maker as well as to athletes to interfere with decisions made by match officials, who are the technical experts, in these circumstances. Other practical reasons for the “field of play” doctrine include the prevention of constant interruptions of the game by appeals to a judge or an arbitrator.

1 PARTIES

1. The First Applicant is an athlete from Iran in the sport of weightlifting (the “Athlete”).
2. The Second Applicant is the National Olympic Committee of the Islamic Republic of Iran (“NOCIRI”).
3. The Respondent is the International Weightlifting Federation (the “IWF”).
4. The first interested party is the International Olympic Committee (the “IOC”).
5. The second interested party is Karl Rimbock, Jury President of the IWF competition.
6. The third interested party is Attila Adamfi, technical delegate of the IWF.

2 FACTS

7. The elements set out below are a summary of the main relevant facts as established by the Panel by way of a chronology on the basis of the submissions of the parties. Additional facts may be set out, where relevant, in the legal considerations of the present award.
8. The Athlete is the Gold medallist at the Games of the XXX Olympiad in London and the World Champion in the +105kg category. In the 16 August 2016 competition, which consists of two parts, the snatch and the clean and jerk, the Athlete set a world record for the snatch.
9. While competing in the clean and jerk, the Athlete's first attempt at lifting 245k was rejected by the referees. The Athlete's second attempt at lifting 245kg was accepted by three referees. However, after the Athlete dropped the barbell, the Jury overturned the referees' decision.
10. The Athlete made a third attempt at lifting 245kg but was unsuccessful.

3 CAS PROCEEDINGS

11. On 19 August 2016 at 08.30 am (all times of Rio de Janeiro), the Athlete and NOCIRI filed an application with the CAS Ad Hoc Division against IWF, identifying the Jury President Karl Rimbock and the Technical Delegate, Atilla Adamfi as Interested Parties.
12. On 19 August 2016, the Parties and the Interested Parties were informed that the President of the CAS Ad Hoc Division had decided that the Panel of arbitrators for this case shall be constituted as follows: Ms. Carol Roberts (President); Mr. Mohammad Abdel Raouf and Mrs Margarita Echeverría Bermúdez (arbitrators).
13. The Panel granted a deadline until 19 August 2016 at 18:00 to the Respondent to file its reply to the Applicant's application (if it deems necessary). Within the same deadline, the interested parties were invited to file *amicus curiae* briefs, if they deem necessary. The Parties were also summoned at a hearing to be held on 20 August 2016, at 09.00.
14. The Panel received a written submission from the IWF on the morning of 20 August 2016 with an explanation for not meeting the submission deadline. The Respondent indicated that its website had been hacked and had to be shut down, making it impossible to respond by the deadline. The Panel accepts the Respondent's explanation. The Panel notes that the Applicants did not object and do not find the delay to have prejudiced them.
15. The IOC informed the CAS Court Office that it did not intend to file a reply.
16. On 20 August 2016, the hearing took place at the temporary offices of the CAS Ad Hoc Division. The Panel was assisted by Mr Antonio de Quesada, counsel to the CAS. The following persons attended the hearing: for the Applicants, Mr. Asghar Rahimi, the Iranian Delegation Chef de Mission, and Ms Atefeh Eskuma; for the Respondent, Mr Salvatore Coffa and Mr Attila Adamfi as interested party. At the beginning of the hearing, the Parties confirmed that they had

no objections to the constitution of the Panel. Upon the request of the Applicants, a video taken by Iranian Television was displayed in the presence of the Respondent. At the end of the hearing, the Parties confirmed that their right to be heard had been respected.

4 PARTIES' SUBMISSIONS

17. The Parties' submissions and arguments shall only be referred to in the sections below if and when necessary, even though all such submissions and arguments have been considered.

a. Applicants' Request for Relief

18. The Applicants filed the following prayer for relief:

"His record for Clean and Jerk to be registered and he could receive his medal based on the athletes' ranking".

b. Respondent's Request for Relief

19. The Respondent argued that all of the Rules had been complied with and requested that the appeal be dismissed.

5 JURISDICTION AND ADMISSIBILITY

20. Article 61.2 of the Olympic Charter provides as follows:

"61 Dispute Resolution

[...]

2. Any dispute arising on the occasion of, or in connection with, the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport (CAS), in accordance with the Code of Sports-Related Arbitration".

21. In view of the above, the Panel considers that the CAS Ad Hoc Division has jurisdiction to hear the present matter. The jurisdiction of the CAS Ad Hoc Division was not contested in the written submissions and was expressly confirmed by all parties at the hearing.

22. Article 1 of the CAS Arbitration Rules for the Olympic Games (hereinafter referred to as the "CAS Ad Hoc Rules") provides as follows:

"Article 1. Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)

The purpose of the present Rules is to provide, in the interests of the athletes and of sport, for the resolution by arbitration of any disputes covered by Rule 61 of the Olympic Charter, insofar as they arise during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games.

In the case of a request for arbitration against a decision pronounced by the IOC, an NOC, an International Federation or an Organising Committee for the Olympic Games, the claimant must, before filing such request, have exhausted all the internal remedies available to him/her pursuant to the statutes or regulations of the sports

body concerned, unless the time needed to exhaust the internal remedies would make the appeal to the CAS Ad Hoc Division ineffective”.

23. The Applicant became aware of the Challenged Decision on 16 August 2016 and filed his appeal on 19 August 2016. Consequently, the dispute arose *“during the Olympic Games or during a period of ten days preceding the Opening Ceremony of the Olympic Games” and the appeal is admissible”.*

6 APPLICABLE LAW

24. Under Article 17 of the CAS Ad Hoc Rules, the Panel must decide the dispute *“pursuant to the Olympic Charter, the applicable regulations, general principles of law and the rules of law, the application of which it deems appropriate”.*
25. The applicable rules are the IWF 2013-2016 Technical and Competition Rules & Regulations (“TCRR”).

7 DISCUSSION

a. Legal framework

26. These proceedings are governed by the CAS Ad Hoc Rules enacted by the International Council of Arbitration for Sport (“ICAS”) on 14 October 2003. They are further governed by Chapter 12 of the Swiss Private International Law Act of 18 December 1987 (“PIL Act”). The PIL Act applies to this arbitration as a result of the express choice of law contained in Article 17 of the CAS Ad Hoc Rules and as the result of the choice of Lausanne, Switzerland as the seat of the ad hoc Division and of its panels of arbitrators, pursuant to Article 7 of the CAS Ad Hoc Rules.
27. According to Article 16 of the CAS Ad Hoc Rules, the Panel has *“full power to establish the facts on which the application is based”.*

b. Merits

28. The Applicants say that the Jury overturned the referees’ decision without observing the relevant rules, specifically, without consulting the three referees who had unanimously accepted the second attempted lift and not communicating the reasons for the decision to the Athlete, contrary to Article 7.5.7 of the TCRR.
29. The Applicants also say that the night before the competition, the start list was changed, removing Mr. Al-Shammari Mohammed from the position of technical controller to one of the jurors, contrary to Article 7.5.3 of the TCRR. The Respondent contended that Jury member replacements are not unusual for a variety of reasons, and that all replacements were made according to the Rules. It also contended that the replacement was not made the night before

the competition; rather, it was made on 10 August 2016 and communicated to all the participants.

30. The relevant provisions of the TCRR are as follows:

7 TECHNICAL OFFICIALS

1.1 Definition

1 *A Technical Official is defined as any person who controls the play of a competition by applying the rules and regulations of the sport to make judgments on rule infringement, performance, tie or ranking. A Technical Official acts as an impartial judge of sporting competition. This involves an obligation to perform with accuracy, consistency, objectivity and the highest sense of integrity.*

7.5.1 *The Jury has the ultimate control on the FOP and its primary function is to ensure that the TCRR are being correctly followed and applied.*

7.5.3. *At IWF events, the Jury is composed of three (3) or five (5) members each, one of which is the President. Up to two (2) reserve Jury members may also be appointed.*

7.5.6. *The impartiality of all Technical Officials is not to be doubted. Errors in officiating may occur involuntarily and in such situations, the TO is allowed to explain his/her decision to the Jury if desired or requested.*

7.5.7 *The Jury has the power to reverse a decision when the Referees' decision has been judged unanimously by the Jury to be technically incorrect. In order to consider the reversal of a decision, the Jury must call the Referees in question to seek an explanation. If the explanation is accepted, no action is taken, if the explanation is not accepted the Jury will reverse the decision. Such decision and its reason must be communicated to the athlete/Team official concerned via the Technical Controller or any other TO, as directed by the President of the Jury, and announced by the Speaker.*

When the decision of the majority of Jury members differs from that of the Referees' decisions, the Jury may call the Referees in question to seek an explanation. If the explanation is accepted, no action is taken, if the explanation is not accepted and the Jury reaches unanimity, the Referees' decision will be reversed.

7.5.8 *In order to apply the above rule, the Jury members have to give the decision on each lift using the Jury Control Unit located on the Jury table. Jury members adjudicate the lift once the athlete has replaced the barbell on the competition platform. (see TCRR 3.3.6.)*

Jury members must not influence or attempt to influence the decision of the other Jury members.

7.5.9 *The Jury is not a Jury of appeal; there is no appeal against the Jury's decision.*

7.5.11 *Reserve Jury members sit at a designated space on the FOP and do not sit at the Jury table unless called upon to replace one of the other Jury members.*

31. The CAS Panel has the power to review and, therefore, overturn a field of play decision. To succeed, the Applicants must demonstrate that the Panel would be justified in overturning the decision of the Jury.
32. The Applicants argued that the Jury did not seek an explanation from the referees and did not communicate the reasons for the second attempt to him, contrary to Rule 7.5.7. In support of this arguments, the Applicants presented a video of the Athlete's three lifts attempts. The Respondent disputed this argument, contending that the decision was communicated both to the Athlete's team and announced publicly by the speaker at the venue. The issue to be examined is whether the decision of the Jury to reverse the referees' decision regarding the Athlete's second attempt was made in violation of the Rules.
33. The Panel is of the view that the video, which focuses on the Athlete's three lifts attempts as well as the warm-up area, is not helpful in establishing a contravention of any rules. It does not show that decision making process or any other aspect of Jury deliberation. The Applicants have not provided any evidence to persuade the Panel that the Jury's decision was not communicated to the Athlete, his coaching staff or other team officials. Furthermore, there is no evidence the Athlete registered a protest, at the time, instead attempting a third lift. In the Panel's view, this tends to support the Respondent's evidence that the reasons for the Jury's reversal of the referees' decision was properly communicated. The Panel also accepts the Respondent's evidence that Jury's reversal of referees' decisions is not an unusual procedure in weightlifting competitions and that it occurred on seven occasions at the Games of the XXXI Olympiad in Rio de Janeiro. The Panel accepts that the Athlete was not treated unfairly.
34. Furthermore, Section 7.5.9 expressly states that there is no appeal against the Jury's decision. The Panel acknowledges the intent of the Rules is to reflect the finality of the Jury's decision and will not interfere with that decision absent any evidence of bad faith, fraud or arbitrariness.
35. CAS jurisprudence has consistently reaffirmed that CAS Arbitrators do not overturn the decisions made on the playing field by judges, referees, umpires or other officials charged with applying the rules of the game unless there is some evidence that the rule was applied in arbitrarily or in bad faith (see CAS OG 00/013, CAS OG 96/006, CAS 2004/A/727).
36. The rationale for the "field of play" doctrine is self-evident. CAS Arbitrators are not specifically trained in the rules of any or all sports and do not have the advantage of being present to observe the events. It would be unfair to a decision-maker as well as to athletes to interfere with decisions made by match officials, who are the technical experts, in these circumstances. Other practical reasons for the "field of play" doctrine include the prevention of constant interruptions of the game by appeals to a judge or an arbitrator. There are practical reasons for match officials not to have their decisions during games visited retrospectively.
37. Furthermore, for a CAS Panel to overturn a field of play decision, there must be evidence, which generally must be direct evidence, of bad faith. In other words, *"there must be some evidence of preference for, or prejudice against, a particular team or individual. The best example of such preference or prejudice was referred to by the Panel in [CAS OG 00/013], where they stated that one circumstance where the CAS Panel could review a field of play decision would be if a decision were made in bad faith, e.g. as a*

consequence of corruption (see Para 17). The Panel accepts that this places a high hurdle that must be cleared by any Applicant seeking to review a field of play decision. However, if the hurdle were to be lower, the flood-gates would be opened and any dissatisfied participant would be able to seek the review of a field of play decision” (CAS OG 02/007).

38. The Panel is also unable to find that the Respondent contravened Rules 7.5.3 or 7.5.11, or acted in bad faith by replacing one juror with a technical controller. The Panel accepts that all the officials are qualified and that replacement of officials is not unusual. Furthermore, the Applicants did not argue, and the Panel does not find, that the substitution had any effect on the results or the Jury decision.
39. The Panel wishes to express its understanding of the Athlete’s profound disappointment and frustration at the result. He is a World and Olympic Champion and the Panel has no doubt that he invested many hours training for this event. However, for the reasons above-mentioned, the Panel finds no basis to interfere with the Jury’s decision.

8 CONCLUSION

40. In view of all of the above, The Applicants’ application filed on 19 August 2016 is dismissed.

The ad hoc Division of the Court of Arbitration for Sport renders the following decision:

The application filed by Behdad Salimi and the National Olympic Committee of the Islamic Republic of Iran on 19 August 2016 is dismissed.