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Sports Tribunal dismisses appeal against non-nomination for Commonwealth Games women's table tennis team

Sarah Her-Lee appealed to the Sports Tribunal against a decision by Table Tennis New Zealand (TTNZ) not to nominate her as a member of the women's table tennis team for selection for the 2014 Commonwealth Games. Five other players were nominated instead.

Ms Her-Lee appealed on the grounds that the TTNZ selectors hadn't properly implemented the nomination criteria by placing insufficient weight on her participation in "key events" specified in the nomination criteria and too much weight on individual world rankings of the nominated players, some of whom had not had much or any recent international competition. The nomination criteria allowed the selectors to consider factors other than participation in "key events", including any factors they considered relevant. It was accepted that the selectors could consider world rankings under the criteria. Four of the nominated players had current world rankings considerably higher than Ms Her-Lee. The one who didn't have a current world ranking had previously held world rankings also considerably higher than Ms Her-Lee's ranking.

The Tribunal considered whether the limited recent international competitive experience of some of the players nominated ahead of Ms Her-Lee was such as to make the selectors' determination unfair or otherwise invalid. The evidence was that reasons for the breaks in international competition included having children and graduate study. TTNZ gave evidence that its high performance director had been monitoring the performance of all the players who were all still actively competing, albeit in one case at club level in China. The Tribunal concluded on the evidence there was nothing to suggest that TTNZ hadn't properly applied the nomination criteria, including by applying the discretionary considerations under that criteria.

The Tribunal didn't accept a submission that Ms Her-Lee hadn't been provided a reasonable opportunity to satisfy the nomination criteria because she hadn't been selected for the world teams events earlier in 2014. The performance of that team, containing most of the nominated players, appeared to be a factor in persuading the NZOC to accept the nomination of a women's team for the Commonwealth Games. In the Tribunal's view TTNZ hadn't breached any selection criteria in picking that team. TTNZ was entitled to nominate the players who it thought most appropriate which may have included consideration of exposing those players again to international competition.

Nor did the Tribunal accept a submission that there was apparent bias in the decision resulting from the effects of a 2013 dispute between Ms Her-Lee and one of the other nominated players who was then the team coach. A team event, which includes doubles, entails co-operation and compatibility between team members and officials, and the nomination criteria recognise this as a factor that may be relevant in nominating a team. The Tribunal also rejected a natural justice argument based on the number of selectors.

The Tribunal therefore dismissed the appeal.

The decision in this case is available from the website of the Sports Tribunal (www.sportstribunal.org.nz). See *Sarah Her-Lee v Table Tennis New Zealand* (ST 08/14). Copies can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sportstribunal.org.nz).