

**DISPUTES RESOLUTION AUTHORITY**  
**Record No DRA8,7/2006**

**BETWEEN**

**DANE SMITH and CASTLERAHAN GFC**

**Claimants**

**- and -**

**CAVAN COUNTY BOARD AND THE ULSTER COUNCIL**

**Respondents**

**DECISION OF THE TRIBUNAL**

**FACTS**

1. Mr Dane Smith, the first named Claimant, is a member of the second named Claimant club Castlerahan GFC.
2. The Respondents are Cavan County Board and the Ulster Council.
3. Mr Smith transferred from Castlerahan GFC to the London club of Parnells GFC in June 2005 and played senior championship football with the club. In the same year, 2005, he returned to his club at Castlerahan GFC and played in an under 21 football championship game.
4. No issue arises on his transfer to Parnells GFC or on the legitimacy on the transfer back to his home club.
5. An objection was lodged by Coromore Gaels GFC, who were Castlerahan's opponents, to the Cavan County Board, the first named Respondent. The

Games Administration Committee deliberated upon the objection by Coromore Gaels. The GAC found as a fact that he played a championship game for Parnells club in London and for Castlerahan GFC in the one season. Therefore the GAC held that this was a breach of Rule 33 of the Official Guide of 2003.

6. Mr Smith and two of his club officials, Mr Green and Mr McGinn were suspended for 48 weeks and Castlerahan GFC were deemed to have forfeited the quarter final victory and hence its place in the Cavan Under 21 Football Championship Semi-final 2005.
7. An appeal to the Ulster Council on the 17<sup>th</sup> January 2006 by the Claimants was unsuccessful. The Ulster Council in fact rescinded Mr Smith's suspension owing to a procedural defect in the handling of his case by Cavan County Board. However the Ulster Council determined that he continued to illegible to play for his club.

### **WHAT THE CLAIMANTS SEEK**

8. The Claimants seek:
  - (a) That the decision of the Cavan County Board (upheld by the Ulster Council) by which the Castlerahan GFC under 21 football team was deemed to forfeit its victory in the quarterfinals of the Cavan Under 21 Football Championship be set aside;
  - (b) That the suspensions handed out to Dane Smith, Seamus Green and John McGinn be rescinded;
  - (c) That they be entitled to the costs of the proceedings.

## **THE PROCEEDINGS**

9. A request for arbitration dated the 30<sup>th</sup> January 2006 was served on the Secretary of the Disputes Resolution Authority on the 1<sup>st</sup> February 2006. A reply was forwarded to the Claimant's by the Secretary of the DRA on 6<sup>th</sup> February 2006.
10. Written submissions were received from the Claimant's under cover of letter dated 17<sup>th</sup> February 2006. Submissions were also received from the Respondents.
11. The Dispute Resolution Authority convened a Tribunal for the hearing of this dispute at the Slieve Russell Hotel on Friday 17<sup>th</sup> February at 7.30pm. Further written submissions were received from the Claimant on the evening of the 17<sup>th</sup> February 2006.

## **THE HEARING**

12. Counsel on behalf of the Claimants submitted that Rule 33, for the purposes of the proceedings, should be interpreted literally.

Rule 33 States:

*"A player may not play a Championship in two different Counties in the same Championship year, except as provided for at Rules 32(d) and 41."*

13. It was further submitted by Counsel for the Claimants that governing bodies are required to apply and operate the terms of their rulebook rather than distort such terms and orders to achieve the result that they desire in any

particular case. Reference was made to the case of *Clancy –v- IRFU [1995] IILRM 195*.

14. That Associations are bound by their own rules and hence cannot claim powers that are not clearly afforded to them by the terms of such rules. Reference was made to the case of *USA Shooting and Quigley –v- International Shooting Union CAS 94/129*. In other words it was submitted that the terms of a Governing Body’s rules mean what they say and not what the dominant and enforcing party to the contract understands them to say.
15. Counsel for the claimants also submitted that a fundamental tenet of contractual interpretation is the “contra preferentem rule”. That is to say that where a term in a contract is ambiguous, it should be construed against the party that wrote it or seeks to use it to the detriment of the other party.
16. Further reference was made to the case of *Bolger –v- Osbourne [2001] IILRM 250*; Macken J:-

*“In the circumstances the rules must be applied as in the case of any rules constituting any other contract, and insofar as there is an ambiguity in them, such ambiguity must be construed against the Defendants and in favour of the Plaintiff. It is lately the case that where the rules give such powers as fining, suspensions or losses of licence the rule must be exercised strictly also from the Plaintiff’s point of view and in a manner which is not arbitrary.”*

17. Further reference was made to the Judgment of McMahon J in *Barry –v- Ginnity, Circuit Court, 13<sup>th</sup> April 2005*, it was submitted that fair procedures should be adhered to and that a significant or “serious” should not be defined only in terms of economic values. Counsel for the Claimants also referred to McMahon J’s findings that “*the Association, of course, would be expected to*

*adhere to its own procedural standards in making disciplinary decisions. Indeed, failure to do so would clearly be a breach of contract, where a contract exists between a member and the Association to which he/she belongs”.*

18. It was further submitted by Counsel for the Claimants relying on the decision of *Vaughan & Others –v- O’Dubhshlaine & others, DRA 1/2005* that a governing body is not given a direction to make an erroneous interpretation of a term of its rules, and that an interpretation that is manifestly at variance with the literal meaning of a term will constitute such erroneous interpretation.
19. Counsel for the Claimants also claimed that on a specific interpretation of Rule 33, the Claimants submit that the term “a Championship” in Rule 33 means what it says. That the indefinite article “A” denotes a single manifestation of the succeeding noun. It was submitted that the words “a Championship” clearly refers to one single Championship.
20. Counsel for the Claimants further submitted that the use of a phrase “a Championship” in Rule 33 denotes a single championship thereby prohibiting a player from playing in a single championship for two teams. It was also submitted that Cavan Under 21 Club Championship and the London Senior Club Championship are in fact two different Championships and hence that the first named Claimant’s actions were not in violation of Rule 33.
21. In response solicitor for the Respondent said that the thrust of Rule 33 is to prevent a player playing in two different Counties in the same Championship year and further submitted that Rule 32(b) referred to clubs within one county.
22. It was also submitted that the meaning of Rule 33 is clear and unambiguous and that the rule stands up to interpretation in its own right.

23. Solicitor for the Respondents also of the view that there was no need to refer to other rules whilst ascertaining the meaning of Rule 33.
24. The Respondents sought a direction refusing the reliefs set out in the Claimants application.
25. The Tribunal considered the submissions of both parties to include oral and written submissions. The Tribunal agrees with counsel for the Applicant in that Rule 33 must be given its literal meaning.
26. The Tribunal members were of the view that Rule 33 can be analysed and broken down into three sections as follows:-
  - i. *“a player may not play a championship”*.
  - ii. *... “in two different counties”*.
  - iii. *... “in the same championship year”*.
27. The Tribunal accepts that whilst there is no definition of the word *“Championship”* within the rules the application of Rule 32 regarding playing eligibility did not have any particular influence on the Tribunal in reaching this decision.
28. It was further agreed that there exists a contract issue between the parties.
29. The members of the Tribunal determined that Mr Smith was in breach of Rule 33 having played a Senior Championship game in London and an Under 21 Championship game in Cavan in the same Championship year of 2005.
30. For the reasons as outlined above the reliefs sought at paragraph 1, 2 and 3 of the Request for Arbitration were refused.

31. There was no application for costs by the Respondent but it is hereby ordered that the costs of the Dispute Resolution Authority be borne by the Claimants.

Dated this 3rd day of March 2006

Signed: \_\_\_\_\_

Pat Purcell

Chairman

Signed: \_\_\_\_\_

Jack Anderson

Tribunal Member

Signed: \_\_\_\_\_

Albert Fallon

Tribunal Member