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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1280 OF 2019**

Devidas Ambadas Sanap .. Petitioner

Vs.

The Union of India & Ors. .. Respondents

Mr. Suresh M. Kamble for petitioner.

**CORAM: DIPANKAR DATTA, CJ. &
ABHAY AHUJA, J.**

DATE : NOVEMBER 21, 2022

P.C.:

1. Following disciplinary proceedings, the petitioner, a member of the Railway Protection Force, was dismissed from service by an order dated 29th April, 2015 passed by his disciplinary authority. An appeal having been carried from the order of dismissal, the appellate authority by its order dated 30th June, 2015 set aside the order of dismissal and instead imposed the penalty of withholding of the petitioner's next increment for a period of five years with cumulative effect. A revision having been preferred by the petitioner, the revisional authority by his order dated 20th February, 2017 confirmed the order of the appellate authority. These orders of the revisional authority and the appellate authority are under challenge in this writ petition.

2. The charge framed against the petitioner reads as follows: -

"You were on duty on 08-11-2014 in the shift from 16.00 to 23.00 in CST Edge of Beat ONF/CCTV PF-6. When one passenger named Shri Mohammed Imtiyaz Asnari, Age - 16 Years, resident of

Madanpura, Husain Baug, Hut behind Shahbaj Hotel, Mumbai-8 came there by crossing from PF No.5 to PF No.6, Rs.500/- has been sought illegally from the above passenger by not taking action under Rail Act and due to the above passenger had no money, his mobile has been kept and inform him to brought money from house. Your act shows irresponsible and gross negligence behavior against the duty being responsible force member and rail employee.

Such act of yours is very much irresponsible and undisciplined. Hence, Rule 146.1, 146.4, 147.7 (iii) of RPF Regulations, 1987 and Rule 3.1 (i) of Rail Services Conduct 1966 has been violated by you."

3. Mr. Kamble, learned advocate appearing for the petitioner does not dispute that the petitioner had detained the cell phone of the passenger till he returned with the penalty amount. However, it is submitted that the petitioner was a new entrant in service and was not aware that he has no authority to detain the cell phone. Once the delinquent admits his guilt, the question of examining whether the finding that the charge is proved has been arrived at based on any evidence does not arise. In such an eventuality, the question of imposition of adequate punishment upon the petitioner lies within the exclusive domain of the disciplinary authority. The disciplinary authority imposed the punishment of dismissal, which indeed was harsh and disproportionate on facts and in the circumstances. The appellate authority duly took note of this aspect and by exercise of judicious discretion interfered with the order of dismissal and imposed the penalty as noted above which has since been confirmed by the revisional authority.

4. In matters relating to disciplinary proceedings, the scope of judicial review is limited. It is all the more limited

when the question is of imposition of appropriate punishment. The departmental authorities are the best judges. When a punishment is imposed, the judicial review court ought to stay at a distance unless of course the punishment imposed shocks its conscience. We do not see any reason to interfere because the petitioner, being a member of a disciplined force entrusted to maintain discipline, was expected to know what was required of him in the circumstances. He ought not to have indulged in any indiscipline.

5. There is no merit in the writ petition. The same stands dismissed. No costs.

(ABHAY AHUJA, J.)

(CHIEF JUSTICE)

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