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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1296 OF 2019

Dnyandev Ambadas Adhav

..... Petitioner

Vs.

The Union of India and Ors.

..... Respondents

Mr.Vikrant Anand Desai h/f Mr.S.M.Kamble for the Petitioner
None for the Respondents

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : FEBRUARY 06, 2023

P.C.

1 The Petitioner is a constable who was suspended and departmental inquiry was initiated against him levelling two charges. Charge no.1 is not proved. Charge no.2 is proved. Inquiry Officer imposed punishment of withholding of one increment for two years with cumulative effect. The Petitioner filed Appeal. The Appeal is dismissed. The Petitioner thereafter filed Revision. Revision is also dismissed. Aggrieved thereby, the present petition.

2 The learned Counsel for the Petitioner submits that charge no.1 is not proved. According to the learned counsel, the general coaches were not inter connected. It has been held that the

Petitioner was in the coach allotted to him. Some dacoits had attacked other general coach. There was no interconnection between two general coaches. As such, the Petitioner could not have travelled to the other general coach. The learned counsel submits that the Petitioner could not have been held responsible for the attack of the dacoits in the other general coach. According to the learned counsel, the Petitioner cannot be held guilty of negligence in the duty. The attack was in the night time. If the Petitioner could have fired, the same would have been risky to the life of the passengers. The evidence has not been properly appreciated by the disciplinary authority. The preliminary inquiry is not also properly held. It was not safe for any person to alight from the train in the dark as there was a deep valley.

3 According to the learned counsel even charge no.2 cannot be said to be proved. The learned counsel in the alternative submits that the punishment imposed is disproportionate.

4 It is not the case that opportunity is not given to the Petitioner during the departmental proceedings. The factual aspect of train being affected by the passengers of general coach is not disputed. It has been observed in the inquiry that the Petitioner even did not go

to the door after the train had stopped. The Petitioner was provided with arms and ammunition. The Petitioner could have taken some steps. However, the Petitioner did not take any step. All these facts have been discussed by the inquiry officer and disciplinary authority. Appeal and Revision filed by the Petitioners are dismissed. This court would not sit in Appeal over the decision of the disciplinary authority. However, we are only to be concerned with the due adherence to the procedure and proper opportunity be given during the departmental proceedings. Opportunity has been given to the Petitioner. The conclusion arrived at is reasonable and rational one. Punishment cannot be said to be disproportionate.

5 In light of that, Writ Petition is dismissed. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)