BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL AT DEHRADUN

CLAIM PETITION NO. 85/SB/2018

Virendra Singh Rawat, Constable Civil Police, presently posted at Thana Rajpur, Distt. Dehradun, Uttarakhand.

WITH

CLAIM PETITION NO. 86/SB/2018

Devendra Chauhan, Constable Civil Police, presently posted at Thana Dalanwala, Distt. Dehradun, Uttarakhand

.……Petitioners

VS.

1. State of Uttarakhand through Principal Secretary (Home), Secretariat, Subhash Road, Dehradun.
2. Inspector General of Police, Gahrwal Range, Uttarakhand.
3. Senior Superintendent of Police, District Dehradun.

….Respondents.

Present: Sri B.B.Naithani, Counsel for the petitioners.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: MAY 31, 2019

Per: Justice U.C.Dhyani

Since the factual matrix of the above noted claim petitions and law governing the field is the same, therefore, both the claim petitions are being decided together, by a common judgment, for the sake of brevity and convenience.

2. By means of above noted claim petitions, petitioners seek following reliefs:

"(1)(a) This Hon'ble Tribunal may be pleased to quash the impugned orders no. D-172/17 dated 11.10.2017, by which censure entry has been made

and

(b) The order no.C.OG-C.A.-Appeal-04 (Dehradun)/18 dated 17.02.2018 by which the appeals made by the petitioners have been rejected.

(2) This Hon'ble Tribunal may further be pleased to pass suitable direction to the respondents to delete the entries made in service records with respect to the above said punishment order and appellate order.

(3) This Hon'ble Tribunal may further be pleased to issue any order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

(4) This Hon'ble Tribunal may kindly befurther pleased to award cost to the petitioners "

3. Facts, which appear to be necessary, for proper adjudication of present claim petitions, are as follows:

In the year 2017, when the above noted Police Constables (petitioners) were posted in P.S. Vikasnagar, District Dehradun, they were directed to go to Saharanpur in connection with past incidents of chain snatching, in the jurisdiction of P.S. Vikasnagar. They proceeded to Saharanpur on 21.06.2017 at 6:50 PM. They were specifically directed to remain in touch, on mobile phone, with Chowki In-Charge, P.S. Vikasnagar and were also asked to return as soon as the task is accomplished. Whenever Officer In-Charge of Chowki Bazar tried to contact the petitioners on mobile, they could not be contacted. Mobile phone was either switched off or was responding as 'not reachable'. The Chowki In-Charge went to Saharanpur and tried to trace the petitioners. He could not get any information regarding their whereabouts. When a complaint was lodged on 22.06.2017 at 7:30 AM, then only Chowki In-Charge was able to contact them on 22.06.2017 at 9:00 AM.

A show cause notice was given to them with 'draft censure entry', under sub-rule (4) of Rule 4(1) (b) of the Uttaranchal Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991. They responded to the same. S.S.P., Dehradun/ disciplinary authority was not satisfied with the explanations of the petitioners, therefore, considering the carelessness on the part of the Police Constables/ delinquents, each one of

them was awarded with a 'censure entry'(Copy: Annexure A-1 on both the files).

The sum and substance of the explanations furnished by the petitioners was that, since there was no mobile network, therefore, they could not contact with anybody. One Constable Jan Singh met them on 21.06.2017, between 8:45-9:00 PM, in Chowki Darrarate. Such Constable, in his statement, has admitted that he met the petitioners. Mobile network was available on 22.06.2017. The petitioners, then informed the Chowki In-Charge and Inspector In-Charge, who directed them to return from Saharanpur (Behat). Thereafter, they reached Chowki Bazar at 9:00 AM.

Services of the petitioners were suspended from 24.06.2017 to 16.07.2017

As has been stated above, since the disciplinary authority was not satisfied with the explanations given by the petitioners (Copy: Annexures A-8 on both the files), therefore, the impugned orders were passed.

Feeling aggrieved with the same, petitioners preferred departmental appeals (Copy: Annexures A-9 on both the files), before appellate authority, who was not impressed with the submissions of the petitioners and, therefore, *vide* order dated 17.02.2018(Copy: Annexures A-2 on both the files) dismissed the appeals. Hence, present claim petitions.

4. Ld. A.P.O., at the very outset, defending the departmental action, submitted that the orders impugned do not warrant any interference. The Court should not interfere with the punishments of 'censure entry' awarded to the petitioners by the appointing authority/ disciplinary authority, which have been upheld by the appellate authority, according to Ld. A.P.O. Ld. Counsel for the petitioners, on the other hand, assailed orders under challenge with vehemence.

5. Ld. Counsel for the petitioners placed a judgment rendered by Lucknow Bench of Allahabad High Court in Udaipal Singh, etc. vs. State of U.P. and others [2006(2) Education and Service Cases(ESC) 1036

(All)(*ALB*)], to show that since the provision of Rule 4(1)(b)(iv) of the Rules [The Uttar Pradesh Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991] are in conflict with Section 7 of the Police Act, 1861, therefore, the same was declared as *ultra vires*. The operative portion of the decision rendered in *Udaipal Singh's case* (*supra*) reads as under:

> ".....Sub clause (iv) of Rule 4(1)(b) of the Uttar Pradesh Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991 is hereby quashed. A writ of certiorari is issued to this effect. The censure entries awarded to those petitioners, who have been communicated of such penalty, are hereby quashed."

6. Ld. Counsel for the petitioners further submitted that on the basis of decision rendered by Hon'ble High Court of Judicature at Allahabad, Hon'ble High Court of Uttarakhand at Nainital took a similar view and quashed the censure entry awarded to the petitioner of *WPSS No. 1154/ 2005, Constable 65 CP Anokhe Lal vs. Superintendent of Police, Rudrapur*, *vide* order dated 31.03.2006 and, therefore, prayed that similar treatment should be given to present petitioners.

7. In *Writ Petition No. 16436/2006 Bhupendra Singh vs. State of U.P.*, Ld. Single Judge of Hon'ble Allahabad High Court, doubting the correctness and disagreeing with the law laid down in *W.P. No. 6525/2004, Deep Narain Singh vs. State of U.P. and others*, which was reported in the name of *Udaipal Singh vs. State of U.P.* (*supra*) referred the matter to be decided by larger bench by formulating the following question:

> **"Whether Rule 4(1)(b)(iv) of the Uttar Pradesh Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991, is *ultra vires* to the provision of Section 7 of the Police Act or not and whether the law to the said extent has been correctly laid down in *Deep Narain Singh* case or not?"**

8. A Division Bench of Hon'ble High Court of Judicature at Allahabad held, in *Bhupendra Singh and others vs. State of U.P. and others, (2007)(4) ESC 2360 (ALL)(DB)*, referring the various provisions

with the view taken in the case of *Deep Narain Singh* (*supra*) that the same is not the correct view and held that the provisions of Rule 4(1)(b)(iv) of the Rules of 1991 are valid and *intra vires.* Censure entry, therefore, can be awarded.

9. It is, accordingly, held that the provisions of Rule 4(1)(b)(iv) of the Rules of 1991 are *intra vires* and the censure entry may be awarded. The petitioners are, therefore, not entitled to any benefit of the decision rendered in *Udaipal Singh* (*supra*) and *Constable 65 CP Anokhe Lal* (*supra*).

10. The second limb of arguments of the Ld. Counsel for the petitioners is that no punishment can be given to a delinquent on the basis of preliminary inquiry.

11. The decision rendered by Hon'ble Apex Court *in Nirmala J. Jhala vs. State of Gujrat and others, (2013) 4 SCC 301,* has been placed before this Tribunal in support of such contention to underline the fact that the evidence recorded in preliminary inquiry cannot be used in regular inquiry, as the delinquents are not associated with it. According to Ld. Counsel for the petitioners, preliminary inquiry may be useful only to take *prima facie* view, as to whether there is some substance in the allegation made against an employee, which may warrant further inquiry. Preliminary inquiry and it's report loses significance once regular inquiry is initiated by issuing charge sheet to delinquent.

12. It may be noted here that the charge against the appellant (*Nirmala J.Jhala*) was that she demanded illegal gratification, she indulged in corrupt practices, the matter was examined on the administrative side by the High Court and after issuing show cause notice to the appellant and considering her reply, the Court made a recommendation to the State Government that the punishment of compulsory retirement be imposed on the appellant. The charge of corruption was proved against her. What this Tribunal wants to emphasize is, that the case of *Nirmala J. Jhala* (*supra*) was a case in which the delinquent was visited with major penalty and hence, the Hon'ble Apex Court appropriately ruled that the evidence recorded in preliminary

inquiry cannot be used in regular inquiry. Here the petitioners have been awarded minor penalty in which the procedure prescribed, is as follows;

> **Sub- rules (2 & 3) of Rule 5 of the Uttar Pradesh Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991**
>
> "**Sub-rule (2)**— The cases in which minor punishments enumerated in Clause (b) of sub-rule (1) of Rule 4 may be awarded, shall be dealt with in accordance with the procedure laid down in sub-rule (2) of Rule 14.
>
> **Sub-rule (3)**— the cases in which minor penalties mentioned in sub-rule (2) & (3) of Rule 4 may be awarded, shall be dealt with in accordance with the procedure laid down in Rule 15."

13. The next question would be, what are the minor punishments enumerated in Clause (b) of sub-rule (1) of Rule 4? The reply is as follows:

> **(b) Minor Penalties**:
>
> *(i) Withholding of promotion.*
> *(ii) Fine not exceeding one month's pay.*
> *(iii)Withholding of increment, including stoppage at an efficiency bar.*
> *(iv)Censure*.

14. What are the minor penalties mentioned in sub-rule (2) and (3) of Rule 4? The reply is as follows:

> 4(2) In addition to the punishments mentioned in sub-rule(1) Head Constables and Constables may also be inflicted with the following punishments—
>
> *(i) Confinement to quarters (this term includes confinement to Quarter Guard for a term not exceeding fifteen days extra guard or other duty.)*
> *(ii) Punishment Drill not exceeding fifteen days.*
> *(iii) Extra guard duty not exceeding seven days.*
> (iv) *Deprivation of good-conduct pay*.
>
> 4(3) In addition to the punishments mentioned in sub-rules (1) and (2), Constables may be punished with fatigue duty, which shall be restricted to the following tasks—
>
> *(i) Tent pitching;*
> *(ii) Drain digging;*
> *(iii) Cutting grass, cleaning jungle and picking stones from parade grounds;*
> *(iv) Repairing huts and butts and similar work in the lines; and*
> (v) *Cleaning Arms*.

15. Most relevant question, from the point of view of present petitioners, would be— what is the procedure laid down in sub-rule (2) of Rule 14?

> "**14(2)**- Notwithstanding anything contained in sub-rule (1) punishments in cases referred to in sub-rule (2) of Rule 5 may be imposed after informing the Police Officer in writing of the action proposed to be taken against him and of the imputations of act or omission on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal."

16. What is the procedure laid down in Rule 15?

> "**15- Orderly room punishment**— Reports of petty breaches of discipline and trifling cases of misconduct by a Police Officer, not above the rank of Head Constable, shall be enquired into and disposed of in orderly room by the Superintendent of Police or other Gazetted Officer of the Police Force. In such cases punishment may be awarded in a summary manner after informing the Police Officer verbally of the act or omission on which it is proposed to punish him and giving him an opportunity to make verbal representation. A Register in Form 2 appended to these rules shall be maintained for such cases. In this Register, text of the summary proceeding shall be recorded."

17. The petitioners, in the instant case, have been awarded 'censure entry'. A perusal of the files reveals that the procedure laid down in sub-rule (2) of Rule 14 has been adopted. Sub-rule has already been quoted above. This Tribunal need not repeat the same. The petitioners were informed in writing of the action proposed to be taken against them and of the imputations of act of omission on which it was proposed to be taken, reasonable opportunity of making such representation, as they wished to make against the proposal, was given. What else was required to be done by the department, in such case? Due procedure has been followed.

18. The inquiry contemplated under the Police Regulations is in the nature of preliminary investigation. The purpose is that before the Superintendent of Police decides whether any further action is necessary in respect of any complaint brought to his notice, he or she should be in a position to see whether there is any truth in such imputation. The inquiry, is therefore, meant only for personal satisfaction of the Superintendent of Police to enable him or her to come to a decision as to whether the matter is to be dropped or whether any action is necessary. No punishment can be imposed as a result of inquiry itself. In the instant case, the appointing authority has not awarded punishment to the petitioners on the result of preliminary inquiries. On the basis of such preliminary investigation, the appointing authority, foreseeing that it is a case of minor punishment, followed the procedure laid down in sub-rule (2) of Rule 14, which has been quoted above.

19. The appointing authority, after informing the delinquents of the action proposed to be taken against them and of the imputations of acts or omission on which it is proposed to be taken and after giving them a reasonable opportunity of making such representations, as they wished to make against the proposal, passed the impugned order (Annexure: A 1). Thereafter, the appellate authority, after considering the contents of appeals, affirmed the view taken by the disciplinary authority and dismissed the appeals *vide* order Annexure: A2. Thus, the appointing authority has followed the procedure laid down in sub-rule (2) of Rule 14. There is no reference of preliminary inquiry in the same. There is, however, reference of the explanations furnished by the delinquents. Essential ingredients of procedure laid down in sub-rule (2) of Rule 14 have been taken into consideration, while passing the orders directing 'censure entry' against the petitioners. The impugned orders, therefore, do not suffer from any infirmity.

20. There is no reference of 'preliminary inquiry' in sub-rule (2) of Rule 14 of the Rules of 1991. Such sub-rule only prescribes that minor punishments may be imposed after informing the Police Officer in writing, of the action proposed to be taken against him, and of the imputations of acts or omission, on which it is proposed to be taken, and

giving him a reasonable opportunity of making such representation, as he may wish to make against the proposal. Such preliminary inquiry is merely a fact finding inquiry. It is only meant for the satisfaction of the appointing authority, notwithstanding the fact that the delinquents were also involved in it. Preliminary inquiry, in the instant cases, has been used by the appointing authority only to derive satisfaction for giving show cause notices, which are in the nature of informing the delinquents of the action proposed to be taken, imputations of the acts or omission and giving them a reasonable opportunity of making representation. Preliminary inquiry has not been used in arriving at a finding. It is only a precursor to the action proposed to be taken. The decision rendered in *Nirmala J. Jhala* (*supra*) is, therefore, not applicable to the facts of present claim petitions.

21. Next, a decision rendered by Hon'ble Apex Court in *Divisional Forest Officer, Kothagudem and others vs. Madhusudan Rao, 2008 9117) FLR 578*, has been placed before the Court to argue that the delinquent officer is entitled to know at least the mind of appellate or revisional authority and, therefore, some brief reasons must be given. A perusal of the impugned orders will reveal that brief reasons have been given by the disciplinary authority as well as the appellate authority. The petitioners are, therefore, not entitled to benefit of this decision.

22. Ld. Counsel for the petitioners next argued that the petitioners had no motive if they did not do what was alleged against them. A Single Bench decision of *Ram Sharan Lal vs. State of U.P., 2008 (117) FLR 102* has been placed before this Tribunal to show that petitioners were not guilty of any misconduct, warranting any disciplinary proceeding. In *Ram Sharan Lal's* decision (*supra*) the allegation was that the petitioner could not make recovery up to target prescribed; *ex facie* the petitioner may be a poor and inefficient official not able to achieve desired target, but in the absence of anything further, *ipso facto,* it would not amount to misconduct. In the instant case, the allegations against the petitioners, as proved in departmental proceedings, are, that in the year 2017, when the above noted Police Constables (petitioners) were posted in P.S. Vikasnagar, District Dehradun, they were directed to go to Saharanpur in

connection with past incidents of chain snatching, in the jurisdiction of P.S. Vikasnagar; they proceeded to Saharanpur on 21.06.2017 at 6:50 PM; they were specifically directed to remain in touch, on mobile phone, with their Chowki In-Charge, and were also asked to return as soon as the task is accomplished; whenever Officer In-Charge of Chowki Bazar tried to contact the petitioners on mobile, they could not be contacted; mobile phone was either switched off or was responding as 'not reachable'; the Chowki In-Charge went to Saharanpur and tried to trace the petitioners; he could not get any information regarding their whereabouts; when a complaint was lodged on 22.06.2017 at 7:30 AM, then only Chowki In-Charge was able to contact them on 22.06.2017 at 9:00 AM; a show cause notice was given to them with 'draft censure entry', under sub-rule (4) of Rule 4(1) (b) of the Uttaranchal Police Officers of Subordinate Rank (Punishment & Appeal) Rules, 1991; and they responded to the same. S.S.P., Dehradun/ disciplinary authority was not satisfied with the explanations of the petitioners, therefore, considering the carelessness on the part of the Police Constables/ delinquents, each one of them was awarded with a 'censure entry'(Copy: Annexure A-1 on both the files). Their defence is that there was no connectivity at the place where they reached in the night. Possible that the place was not well connected with signals, but the question is— what prevented the petitioners from informing their senior Police Officials about their location by wireless set? Their inaction cannot be defended on the ground that their senior Police Officials could have contacted them on wireless. A counter question cannot be posed as to why their senior Police Officials did not try to contact them on wireless?

23. The next question would be— what is the extent of Court's power of judicial review on administrative action? This question has been replied in Para 24 of the decision of *Nirmala J. Jhala* (*supra*) itself, as follows:

> **"24.The decisions referred to hereinabove highlights clearly, the parameter of the Court's power of judicial review of administrative action or decision. An order can be set aside if it is based on extraneous grounds, or when there are no grounds at all for passing it or when the grounds are such that, no one can reasonably arrive at the opinion. The**

> Court does not sit as a Court of appeal but, it merely reviews the manner in which the decision was made. The Court will not normally exercise its power of judicial review unless it is found that formation of belief by the statutory authority suffers from mala fides, dishonest/ corrupt practice. In other words, the authority must act in good faith. Neither the question as to whether there was sufficient evidence before the authority can be raised/ examined, nor the question of re-appreciating the evidence to examine the correctness of the order under challenge. If there are sufficient grounds for passing an order, then even if one of them is found to be correct, and on its basis the order impugned can be passed, there is no occasion for the Court to interfere. The jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. This apart, even when some defect is found in the decision making process, the Court must exercise its discretionary power with great caution keeping in mind the larger public interest and only when it comes to the conclusion that overwhelming public interest requires interference, the Court should intervene."

24. One of the contentions of Ld. Counsel for the petitioners is that they could not supply the information regarding their whereabouts to their Chowki In-Charge, because mobile network was not available. The petitioners-delinquents reached *Darrarate* around 9:00 PM. They were advised by the Police Constables, doing duty at Darrarate, that they should not proceed further, as there is possibility of their meeting wild life. Petitioners, therefore, stopped at Forest Check-Post. They wanted to inform their Chowki In-Charge on telephone, but could not do so because of non availability of network. Ld. A.P.O., on the other hand, submitted that even if there was no mobile connectivity at Forest Check-Post, Darrarate, they could have come back to a little distance and inform their Chowki In-Charge, on mobile, from the place where mobile connectivity was available. Nobody stopped them from travelling back to some distance and informing their Chowki In-Charge. Further, they could have

informed their Chowki In-Charge on Police Wireless. Instead of staying at Forest Check-Post, Darrarate, they could have stayed at Police Chowki, located at the same place, and requested the Constables at such Police Chowki to have conveyed the message to their Chowki In-Charge through wireless, but they did not do so. This Tribunal finds substance in such submission of Ld. A.P.O. that the delinquent Police Constables could have informed their Chowki In-Charge their whereabouts through wireless. There might not be any *malafide* on the part of these petitioners in not putting sincere efforts in informing their Chowki In-Charge, but certainly, there was carelessness on their part in not having done so. The word 'misconduct' is a concept of wide magnitude. Scope and ambit of the said word is very wide. Anything which is expected from a Govt. servant, in the given circumstances, and he or she does not do so, is a misconduct.

25. Sub-rules (1 & (2) of Rule 3 of the Uttarakhand Government Servants Conduct Rules, 2002 is important in the context of present claim petitions. The said provision reads as below:

> **"3(1)** Every Govt. servant shall, at all times, maintain absolute integrity and devotion to duty;
> **3(2)** Every Govt. servant shall, at all times, conduct himself in accordance with the specific and implied orders of Government regulating behavior and conduct which may be in force."

The word 'devotion', may be defined as the state of being devoted, as to religious faith or duty, zeal, strong attachment or affection expressing itself in earnest service.

26. It appears that the petitioners took the directions of their superior in a casual way and not with such intensity, in which it was given to them. It is true that they proceeded to the place where they were directed to go; they were stuck in the midway due to some plausible reasons, but when they were specifically directed by their superior(s) to inform their location and whereabouts, from time to time, they ought to have informed the same to their Chowki In-Charge through wireless, even if mobile connectivity was not there at the place where they reached and this omission, on their part, is sufficient to hold that they were guilty of

'misconduct'. Although it is also the imputation against them that they deliberately switched off their mobile phones and stayed in Forest Check-Post, Darrarate and, thereby, they have concealed the place of their presence.

27. This Tribunal, therefore does not find it to be a case of judicial review, in the absence of any material on record, to hold that formation of belief/ opinion by the appointing authority, as upheld by the appellate authority, suffers from *malafide* or there is anything, on record, to hold that there was procedural error resulting in manifest miscarriage of justice and violation of principles of natural justice. There were reasonable grounds before the authorities below to have arrived at such conclusion.

28. This Tribunal is of the view that due process of law has been followed while holding the delinquents guilty of misconduct. No legal infirmity has successfully been pointed in the same.

29. Any allegation against the delinquent Police official, may not be treated as true, but when such insinuation is fortified by some substance, on record, the court may draw an adverse inference against the delinquent. Standard of proof, in departmental proceedings, is preponderance of probability and not proof beyond reasonable doubt. Preponderance of probability has to be adjudged from the point of view of a reasonable prudent person. If present case is adjudged from the aforesaid yardstick, this Tribunal finds no reason to interfere in the inference drawn by the Disciplinary Authority, as upheld by the Appellate Authority.

30. This Tribunal, therefore, is unable to take a view different from what was taken by the appointing authority as upheld by the appellate authority. No interference is, therefore, called for in holding the petitioners guilty of misconduct.

31. 'Judicial review of the administrative action' is possible under three heads, *viz:*

(a) illegality,

(b) irrationality and

(c) procedural impropriety.

Besides the above, the 'doctrine of proportionality' has also emerged, as a ground of 'judicial review', of late.

32. The orders under challenge, in the instant case, are neither illegal nor irrational, nor do they suffer from procedural impropriety, but there is a case for interference on the limited ground of 'doctrine of proportionality', as has been argued by Ld. Counsel for the petitioners. It has been provided in the U.P. Police Officers of Subordinate Rank (Punishment and Appeal) Rules 1991 that the Constables may be punished with 'fatigue duty', a description of which shall be given, in the following paragraph of this judgment.

32. Under sub-rule(1)(b)(iii) of Rule 4 of the Rules of 1991, the Constables may also be punished with 'fatigue duty' which shall be restricted to the following tasks:

(i) Tent pitching;
(ii) Drain digging;
(iii) Cutting grass, cleaning jungle and picking stones from parade grounds;
(iv) Repairing huts and butts and similar work in the lines; and
(v) Cleaning Arms.

33 'Fatigue duty' is also a type of minor penalty, which finds place in the statute book and appears to be *at par* with 'censure entry' *minus* civil consequences. In other words, whereas 'censure entry' entails civil consequences, 'fatigue duty' does not. Considering the facts of these claim petitions, this Tribunal finds that rigour of censure entry should be mitigated, in the peculiar facts of the case, on the ground that the only omission on the part of delinquents was that they did not inform their location to their superior despite the fact that they were specifically directed to do so. They proceeded at the place where they were required to go, but were stuck up in the midway because of unforeseen circumstances. They stayed in the Forest Check-Post, Darrarate, instead of staying at Police Chowki at the selfsame place. Their only fault was that they did not inform their location through wireless or through any other mode of communication to their Chowki In-Charge, and, therefore, this Tribunal feels that considering insinuation levelled and proved against the petitioners, the ends of justice will be met, if the petitioners, in the peculiar facts of the case, are awarded with 'other Minor Penalty', *viz,* 'Fatigue Duty', instead of 'censure entry'. This Tribunal is, therefore, inclined to interfere, only to this extent, on the ground of emerging

'doctrine of proportionality', substituting 'censure entry' with 'fatigue duty'.

34 Order accordingly.

35 The claim petitions thus stand disposed of. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 31, 2019
DEHRADUN

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