

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 443 of 2011**

S. Das Gupta S/o late A. R. Das Gupta, employed as Constable
(Force No. 902336081) Central Industrial Security Force, Diamond
Mines Unit, PANNA (Madhya Pradesh)

---- **Petitioner**

Versus

1. Union of India through the Secretary, Ministry of Home Affairs, 13,
CGO Complex, Lodhi Road, New Delhi - 110003
2. The Dy. Inspector General (Personnel), Office of the Directorate
General, Central Industrial Security Force (Ministry of Home Affairs)
13, CGO Complex, Lodhi Road, New Delhi - 110003
3. The Commandant, Central Industrial Security Force, KSTPP Unit,
Korba, Post Pragatinagar, Korba, Chhattisgarh
4. The Assistant Commandant, Central Industrial Security Force,
Diamond Mines Unit, Panna, PANNA (Madhya Pradesh)
5. The Assistant Commandant, (Administration) Central Industrial
Security Force, BSP Unit, Bhilai, Dist Durg (Chhattisgarh)

---- **Respondents**

For Petitioner	:	Shri B. P. Rao, Advocate
For Respondents	:	Shri B. Gopa Kumar, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15.10.2019

1. The challenge in the present writ petition is to the clarification note
dated 07.11.2003 Annexure P-2 from the Office of the Directorate

General, Central Industrial Security Force (Ministry of Home affairs) and also the consequential order dated 08.01.2004 whereby the benefit of ACP granted to the petitioner has been withdrawn.

2. Counsel for the petitioner submits that the benefit of ACP which has been withdrawn from the petitioner was only on the ground that at the relevant point of time the petitioner could not clear medical examination test as the petitioner on account of an accidental injury could not appear for the medical test. It is the further contention that subsequently the petitioner in fact appeared before the Medical Board and he has been declared fit and to be "SHAPE-1" in the year 2007 & 2010, therefore, the petitioner becomes eligible for grant of ACP. Counsel for the petitioner referred to Annexure P-5 which is a letter issued by the Assistant Commandant (Administration) dated 10.11.2010 wherein it reflects that the case of the petitioner is pending consideration before the Special Medical Board (SMB) and in case he is declared to be SHAPE-1 by the SMB, the petitioner would be entitled for the benefit of ACP. However, thereafter there has been no development available in the record to show either the petitioner was declared unfit or the petitioner was declared not entitled for the said ACP.
3. Given the said facts, with the consent of the counsel for the respondents, this Court is of the opinion that ends of justice would meet if the writ petition is disposed of with a direction to the respondent no.2 to consider the case of the petitioner as regards his grievance of withdrawing the ACP that was granted to him. In case the

petitioner has been declared to be "SHAPE-1", the petitioner be granted appropriate relief in terms of Annexure P-5 dated 10.11.2010 passed by the Assistant Commandant (Administration) i.e. Respondent no.5.

4. Let the respondent no.2 take an appropriate decision in this regard at the earliest preferably within a period of 3 months from the date of receipt of copy of this order, in accordance with rules, regulations and guidelines governing the field so far as grant of ACP is concerned.
5. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE

Khatai