

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : October 12, 2012*

+ **WP(C) 6486/2012**

MANNU YADAV Petitioner
Represented by: Mr.D.S.Kauntae, Advocate.

versus

UOI & ORS. Respondents
Represented by: Ms.Barkha Babbar, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE MANMOHAN SINGH

PRADEEP NANDRAJOG, J. (Oral)

1. The petitioner was charged for, with mala fide intention, misleading Ct./GD Neeraj Kumar to withdraw ₹15,000/- from the saving bank account of Ct./GD Chandra Kant Thumbre maintained with the State Bank of India after the petitioner stole the ATM Card belonging to Ct./GD Chandra Kant Thumbre and informing Ct./GD Neeraj Kumar that Ct./GD Chandra Kant Thumbre had handed over the card to him for withdrawing money from the account by using the ATM Card. The second charge was of unauthorisedly leaving the CRPF Camp without permission on May 22, 2009 and returning back on May 31, 2009.

2. At the inquiry the charge was proved.

3. The petitioner did not cross-examine any witness.

4. He now pleads that the inquiry was a farce and his signatures were obtained on blank documents.

5. The plea is a ruse.

6. Witnesses have deposed that Ct./GD Neeraj Kumar had used the ATM Card of Ct./GD Chandra Kant Thumbre on May 11, 2009 and had withdrawn ₹15,000/- from the account of Ct./GD Chandra Kant Thumbre. Ct./GD Neeraj Kumar has deposed that he was induced by the petitioner, who told him that Ct./GD Chandra Kant Thumbre had handed over his ATM Card to the petitioner and had also disclosed to the petitioner the PIN number and he went to the ATM Machine with the petitioner and as the petitioner stood outside he withdrew the money.

7. Evidence surfaced that the Ct./GD Chandra Kant Thumbre learnt about ₹15,000/- being withdrawn from his account only on May 19, 2009. And this explains the petitioner running away from the camp on May 20, 2009.

8. Now, the petitioner may say anything as to what happened at the inquiry, but has no explanation to offer to the fact that after the Inquiry Officer submitted the report which was sent to the petitioner on July 28, 2009 for petitioner to respond, he sent a communication on August 21, 2009 in which he wrote that he was in financial stress due to his wife being unwell and this made him mentally disturbed and that in a disturbed state of mind he misused the ATM Card to withdraw ₹15,000/- He begged forgiveness saying that this was the only wrong done by him in his life.

9. At this stage learned counsel for the petitioner concedes that there is unimpeachable evidence against the petitioner but prays to reduce the penalty, which we find is one of removal from service.

10. We do not find the penalty shocking or disproportionate. The petitioner resorted to the offending act, not as innocently as he claims, but as a result of a well thought of evil design.

11. Evidence shows that a CCTV Camera was installed by the bank authorities at the entry of the room where the ATM Machine was kept. The petitioner knew this. This is the reason why, after stealing the ATM Card from Ct./GD Chandra Kant Thumbre, he induced Ct./GD Neeraj Kumar to withdraw the cash. It was the good luck of Ct./GD Neeraj Kumar that evidence surfaced of the petitioner's guilt when the petitioner ran away from the camp on May 20, 2009 after the scandal surfaced on May 19, 2009 and the victim Ct./GD Chandra Kant Thumbre informing facts pointing the needle of suspicion towards the petitioner.

12. We dismiss the writ petition in limine but refrain from imposing any costs.

(PRADEEP NANDRAJOG)
JUDGE

(MANMOHAN SINGH)
JUDGE

OCTOBER 12, 2012
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