

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

+ **W.P(C) No.10966/2005**

% **Date of decision: 03.03.2008**

UTI Asset Management Co.Pvt Ltd Petitioner
Through: Mr.P.K.Srivastava, Advocate.
Versus

The Presiding officer & Anr Respondents
Through: Mr.H.K.Chaturvedi, Advocate for
the respondent No.2.

AND

W.P(C) No.20371/2005

J.C.Katyal Petitioner
Through: Mr.H.K.Chaturvedi, Advocate.

Versus

UTI Asset Management Co.Pvt Ltd Respondent
Through: Mr.P.K.Srivastava, Advocate.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. To be referred to the reporter or not? | NO |
| 3. Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. UTI Asset Management Co.Pvt Ltd has sought a Writ of Certiorari seeking quashing of award dated 28th April, 2005 in Case No.2/92

holding that the action of the management of UTI in dismissing the workman Sh.J.C.Katyal is not justified and the workman is entitled to be reinstated in the service from 17th December, 1987 after withholding two increments with cumulative effect along with full back wages within one month from the publication of the award. In writ petition No.20371/2005 the workman is seeking setting aside of the order dated 3rd February, 2005 and award dated 28th April, 2005 to the extent of award of punishment of withholding of two increments with cumulative effect.

2. The learned counsel for the management has contended that two distinct charges were framed against the workman. The first charge was regarding the workman marking his attendance and thereafter leaving the premises unauthorizedly after initialing the time in the attendance record on various dates in June and July, 1984. The second charge against the workman was that the application of the workman for ordinary leave from 18th July, 1984 to 28th July, 1984 and extension upto 3rd August, 1984 was not accepted and the workman was advised to report for duty, however, the workman did not report for duty till 4th August, 1984 and thus remained absent unauthorizedly and the workman thereafter also remained absent unauthorizedly from 13th to 18th August, 1984 and 22nd August, 1984 till 27th August, 1984.

3. The learned counsel for the management has contended that the learned Central Government Industrial Tribunal has not considered the punishment awarded on account of first charge i.e workman was coming to the office during June & July, 1984 marking his presence and thereafter leaving the office un-authorizedly and after considering the second charge regarding remaining absent in July and August, 1984 for various periods without sanctioned leave un-authorizedly and has set aside the dismissal of the workman and has awarded punishment of withholding of two increments with cumulative effect.

4. The learned counsel for the workman does not dispute that the learned Central Government Industrial Tribunal has not considered the order of the authorities regarding imposition of punishment on account of first charge which was on account of petitioner coming to the office marking his presence in the attendance record and leaving the premises of the office unauthorisedly.

5. In the circumstances the learned counsel for the parties also do not have any objection to the award dated 28th April, 2005 being set aside and matter being remanded to Central Government Industrial Tribunal cum Labour Court-II for rehearing and decision on all the pleas and contentions of the parties.

6. The learned counsel for the workman has also contended that even after the award dated 28th April, 2005 the workman has remained unemployed and it will be just and appropriate, if the workman is allowed to establish that he has remained un-employed. The learned counsel for the management has contended that the workman is gainfully employed and has refuted the plea of the workman that he has remained un-employed.

7. In the circumstances the award dated 28th April, 2005 in Case no.2/92 is set aside and the matter is remanded to Central Government Industrial Tribunal Cum Labour Court-II for rehearing and redetermination of the disputes between the parties. The parties are , however, allowed an opportunity to lead evidence in respect of employment, if any, of the workman Sh.J.C.Katyal. Since the matter is very old, it is desired that the Industrial Tribunal shall dispose of the reference preferably within six weeks. Parties are directed to appear before Central Government Industrial Tribunal Cum Labour Court-II on 7th April, 2008. Writ petitions and all the pending applications are disposed of with these directions. Parties to bear their own costs.

Dasti to the parties.

March 03rd, 2008.
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ANIL KUMAR, J.