

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Civil Writ Petition No.10056 of 2012

Date of decision: 24.9.2015

Rajbir Singh

... Petitioner

Versus

Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Shiv Kumar, Advocate,
for the petitioner.

Mr.Arvind Kashyap, Advocate,
for respondent No.2.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The Presiding Officer, Labour Court-III, Faridabad has non-suited the petitioner-workman on the ground that the Deputy Registrar, Cooperative Societies, Gurgaon has not approved the appointment of the petitioner as Salesman-cum-Peon in respondent No.2-The Neemka Cooperative Credit and Service Society Limited in Faridabad when he did not accord approval of the resolution of the Society recommending appointment of the petitioner and the Deputy Registrar, Cooperative Society, Gurgaon has not been arrayed as a party to the dispute. It appears to this Court that a hyper-technical view has been taken which may not have been justified since the Deputy Registrar, Cooperative Society, Gurgaon did

not pass the order of termination. He only disapproved the action of the Society and thus for all intents and purposes, the necessary party was respondent No.2-alone. However, if the view of the Labour Court is to be supported, then at best, the Deputy Registrar, Cooperative Societies, Gurgaon could be viewed as a proper party but whose presence is not necessary for determining the dispute referred for adjudication which is whether the termination of the services of the workman was justified or not and to what relief, the workman is entitled to. In any case, the defect, if any, was curable even before the Labour Court and by way of abundant caution, learned counsel for the petitioner submits that the Deputy Registrar, Cooperative Societies, Gurgaon has been made party to the present writ petition though he was not a party before the Labour Court. Non-suiting the petitioner on this hyper-technical ground has resulted in injustice inasmuch as the case of the petitioner has not been decided on merits which he deserves to get his grievance adjudicated in terms of the reference made by the appropriate Government under Section 10(1)(c) read with Section 2A of the Industrial Disputes Act, 1947.

Heard the learned counsel for the parties. They do not oppose remand vigorously as it is always better to settle the dispute on merits.

For the reasons recorded above, the impugned award dated 16.6.2011 is set aside and the matter is remanded to the file of the Presiding Officer, Labour Court-III, Faridabad for deciding the reference on merits. The Labour Court would implead the Deputy Registrar, Cooperative Societies, Gurgaon and issue notice to him in case he wishes to have any say in the matter. Since the remand will lead to delay in adjudication, it will remain the endeavour of the Court to conclude the trial within one year from

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the date of completion of pleadings given all things are equal. No unnecessary adjournments will be granted to either of the parties.

Parties to appear before the Presiding Officer, Labour Court-III,
Faridabad on 19.10.2015.

(RAJIV NARAIN RAINA)
JUDGE

September 24, 2015

Paritosh Kumar