

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

**CWP No.27221 of 2015
Date of decision: 24.12.2015**

Gurinder Singh

... Petitioner

Versus

The Presiding Officer, Industrial Tribunal,
Amritsar & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Amarjit Singh, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J.(Oral)

A pure finding of fact has been returned by the Presiding Officer, Industrial Tribunal, Amritsar in the award dated October 8, 2015 that the petitioner had not completed 240 days of service. Admittedly, the petitioner worked for 7 months as Secretary of the Cooperative Society. He was replaced by another Secretary whose affidavit regarding experience was found false and bogus. It is the say of the petitioner that while he was removed from service without notice/charge-sheet or compensation one Ajit Singh was appointed in his place, but the petitioner did not plead before the Labour Court violation of Section 25-H of the Industrial Disputes Act, 1947(for brevity 'the ID Act') and therefore, neither an issue was framed nor any evidence was led by the parties. It is well settled that the rights as embodied in Section 25-F, 25-G and 25-H of the ID Act are to be pleaded and proved before the relief

can flow. The fate of the provisions of Section 25-H are not tied to the rigours of Section 25-B of the ID Act, since it is not required therein to prove the element of clocking of 240 days as prescribed in the Act. Besides, the principle that what is not pleaded cannot be proved is well established in law. It is not proper in the supervisory jurisdiction of this Court to tinker with findings of fact, and especially when they relate to jurisdictional facts and if jurisdictional facts are not satisfied, the Labour Court loses authority to decide.

For the forgoing reasons, I do not find any infirmity in the impugned award and the petition is ordered to stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

24.12.2015
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