THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

<u>WRIT APPEAL No.1235 of 2017</u>

<u>29.08.2017</u>

Between:

UCO Bank Head Office,
Kolkata and another

..Appellants

and

C.Syamsundar Rao

..Respondent

Counsel for the appellants: Mr.E.Sambasiva Pratap,
standing counsel for UCO Bank

Counsel for respondent: Mr.J.Ugranarasimha

The Court made the following:

<u>JUDGMENT</u>: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Feeling aggrieved by order, dated 03.04.2017, in W.P.No.35261 of 2016 of the learned Single Judge, the respondents therein filed this writ appeal. By the aforementioned order, the learned Single Judge has allowed the writ petition and declared that the respondent is entitled to revised gratuity based on the revision of pay scales. The learned Single Judge has also awarded interest at the rate of 6% per annum from the date the revised gratuity fell due till the date of payment.

2. At the hearing, Mr.E.Sambasiva Pratap, the learned standing counsel for UCO Bank appearing for the appellants, drew our attention to the judgment of the Supreme Court in Central Bank of India vs. M.Sethumadhavan[1], wherein it discussed the claim of the employees, who retired prior to 31.10.1994, for calculation of gratuity on the basis of the revised pay, a claim similar to the one made in the present writ appeal. After considering the case law, the Supreme Court held as under:

> "8. Fixing of cut-off date has been a well accepted principle and we do not find that the same needs to be supported by any Judgment since it has been the consistent view taken by this Court. In State of Punjab & Ors. Vs.Amar Nath Goyal & Ors. (2005) 6 SCC 754, which was subsequently followed in Government of Andhra Pradesh & Ors. Vs. N.Subbarayudu & Ors., reported in (2008) 14 SCC 702, this Court has referred to all the judgments in that regard. In the peculiar facts of this case, having regard to the background of the regularization making process, we are of the view that the cut-off date fixed by the appellants in the regularization was not arbitrary, unjust or unfair."

3. Mr.J.Ugranarasimha, learned counsel for the respondent, has fairly conceded that the judgment of the Supreme Court in Sethumadhavan

[1] dated 29.03.2017, in Civil Appeal No.1975 of 2010

(supra) applies to the present case also and that following the said judgment, the order of the learned Single Judge is liable to be set aside. He has, however, relied upon paragraph 9 of the judgment of the Supreme Court, wherein it issued a direction to the appellant bank to pay to the private parties, a sum of Rs.2,00,000/- in full and final settlement of all their claims including the expenses which they might have incurred for litigation for more than two decades and submitted that the same benefit may be extended to the respondent herein. We are afraid, we cannot accede to this submission for, while giving the direction as above, the Supreme Court invoked its power under Article 142 of the Constitution of India. As this Court cannot exercise the power under the said provision as there is no similar provision vesting such power in High Courts, it is not possible for us to grant a similar direction as granted by the Supreme Court.

4. In the light of the above, the order of the learned Single Judge is set aside and the Writ Appeal is allowed.

5. As a sequel to allowing the writ appeal, W.A.M.P.No.2276 of 2017 filed by the appellants for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

29th August, 2017
GHN