

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) 2076/2025 CM(5490/2025)

**Blackcats Placement Security
Services**

...Petitioner(s)/Appellant(s).

Through: Mr. Mohammad Yawar Hussain, Advocate.

Vs.

**Union Territory of J and K
and Ors.**

...Respondent(s)

Through: Mr. Hakim Aman Ali, Dy. AG.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE.

ORDER

01.09.2025

1. Heard learned counsel for the petitioner.
2. Through the medium of the instant petition filed under Article 226 of the Constitution of India, the petitioner has sought the issuance of writs/directions, in the nature of mandamus, for commanding upon the respondents to implement the OM's dated 06.01.2023 and 19.01.2023 to extend the benefit of the same to him on account of the revision of minimum services charges retrospectively from the date the said OM's have come into force.
3. The case of the petitioner in nutshell is that the same is a registered outsourcing service provider and has been in the said business for last more

than six to seven years providing, man power at present to the SKIMS Soura, SKIMS MC Bemina, Skill Development Department as also other reputed institutions. That since the bidding of the aforesaid services has taken place through GeM Portal, the initial service charge rate was 0.85% payable to the contractor/bidder. That the petitioner has been allotted contract by the respondents/SKIMS Soura for supply of man power as against the commission rate of 0.85% only when the Government of India had already issued OM Dated 06.01.2023, whereby, under procurement of man power outsourcing services, the service charges on account of commission came to be fixed at 3.85% (3% profit plus transaction charges 0.85%).

That the said OM was followed by another OM dated 19.01.2023 issued by the Procurement Policy Division, Department of Expenditure, Government of India whereby it was informed that GeM has increased minimum service charges from 0.85% to 3.85% for commission based services for man power outsourcing. That he has been providing services to the respondent-department but is being paid 0.85% as minimum service charges. That respondents pursuant to the issuance of OMs dated 06.01.2023 and 19.01.2023 were requested to increase the minimum service charges from 0.85% to 3.85% in compliance to the aforesaid office memoranda but same has not been done and he is being subjected to huge financial loss.

The learned counsel for the petitioners Mr. M.Y. Bhat, Senior Advocate, submitted that a learned Coordinate Bench of this Court has already disposed of some similarly situated matters at the threshold stage by directing the respondents to extend the benefit of the OM's bearing No's. 06.01.2023 and 19.01.2023 raising the outsourcing commission rate from 0.85% to 3.85%. He submitted that the matter can be disposed of at this stage by directing the respondents to provide the similar treatment to the present petitioner-company also.

4. Learned counsel for the respondents Mr. Hakim Aman Ali, Dy. AAG, in rebuttal, however, contended that the petitioner subscribed to the terms and conditions of the tender notice pursuant to which, as a successful bidder, he also signed the agreement thereby acknowledging the commission rate of 0.85%. He submitted that the petitioner, under law, is not entitled to claim the enhanced rate of commission at this belated stage.

5. In the facts and circumstances of the case, especially having regard to the nature of the relief sought, this Court is of the opinion that matter can be disposed of at this threshold stage by passing of such appropriate orders which are not likely to prejudice the rights and interests of the respondents.

6. The petitioner only claims the extension of benefit of a Government order which was in force prior to the issuance of the tender and execution of the agreement between the parties. The ends of justice demand that

petitioner should be given the benefit of the Government orders which were already in vogue prior to the issuance of tender notice on GeM.

7. A learned Coordinate Bench of this Court has already in the case of the same petitioner bearing No. WP(C) 2586/2023 disposed of the matter at the threshold stage vide its order dated 06.10.2023 by directing the respondents to extend the benefit of OM No. 6/1/2023-PDD Dated 6th January, 2023 followed by endorsement No. FIN/22/01/2016-CDN(A&A) dated: 22.02.2023 providing for the revised rates of commission.

8. In the backdrop, the instant petition is disposed of at this threshold stage with the direction to the respondents to consider the extension of the benefit under OM's dated 06.01.2023 and 19.01.2023 providing for enhancement of commission rates from 0.85% to 3.85%, in favour of the petitioner retrospectively from the date of the first supply of man power, pursuant to the agreement drawn between the parties.

9. The respondents shall make the consideration as directed within a period of six weeks.

10. Disposed of.

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR:

01.09.2025

"Shahid Manzoor"