

NATIONAL INSTITUTE OF TECHNOLOGY SILCHAR

EIGHTY THIRD SPECIAL MEETING OF THE BOARD OF GOVERNORS

MINUTES

The 83rd Special meeting of the Board of Governors was held on 5th August, 2021 at 1230 hours via video conferencing. The following members were present in the meeting:

1. Sri Gautam N Mehra, Chairman & Managing Director, Savita Oil Technologies Limited, Chairperson, BoG
2. Prof. Sivaji Bandyopadhyay, Director & Ex - Officio, BoG
3. Sri Mrutyunjay Behera, Economic Adviser (HE), MoE
4. Ms. Darshana M Dabral, JS & FA, Integrated Finance Division, MoE
5. Sri Basant Kumar Khetan, Pro Chancellor, Kaziranga University
6. Shri Abhijit Barooah, Managing Director, Premier Cryogenics Ltd
7. Prof. P. S Choudhury, NIT Silchar
8. Dr. Ripon Patgiri, NIT Silchar
9. Prof. Nalin Behari Dev Choudhury, Registrar (i/c) & Secretary, BoG

Sri Gautam N Mehra presided the meeting of the Board of Governors as Chairperson in accordance with Section 16 of the NITSER Act.

At the outset, Prof. N. B. Dev Choudhury welcomed the Chairperson and other members who attended the meeting.

The BoG then initiated the discussion on the Agenda Items one by one: -

BoG-S83/21/01: Regarding implementation and future course of action of decision of The Gauhati High Court in Case No. WP(C)/403/2021 (Champalal Gorh and 59 others vs The Union of India and 6 others) to consider giving minimum scale of pay to Muster Roll Employees of NIT Silchar and the communication from the Ministry of Education dated 04-08-2021.

The Muster Roll / Daily Wage workers of the Institute had filed a writ petition in the High Court of Gauhati vide WP (C) No/403/2021 on being aggrieved by the initiation of the recruitment process for filling of non-teaching posts pursuant to the advertisement dated 07.03.2019 without regularization of the services of the Muster Roll / Daily Wage workers. The Hon'ble Gauhati High Court vide order dated 06.02.2021 directed to examine and consider whether the petitioners can be given the minimum scale of pay in terms of the judgement of the Apex court in the case of State of Punjab vs Jagjit Singh. The same should be done within a period of six months from the date of receipt of a copy of the said order.

The matter was placed before the 80th meeting of Board of Governors scheduled on 14.02.2021 and the board opined to refer the matter to the Ministry of Education. The institute vide letter No. NITS/Estt/BoG-80/21 dated 11.03.2021

referred the matter to Ministry of Education along with detailed financial implication.

The Ministry of Education vide letter F. No. 15-12/2016-TS.III dated 16.03.2021 instructed the institute to seek the legal opinion of the Assistant Solicitor General, Gauhati High Court as to whether the petitioners can be given the minimum scale of pay in terms of the judgment of the Apex court in the case of State of Punjab vs Jagjit Singh and then send the proposal along with the legal advice and Institute's comments for further consideration of the Ministry. Institute vide letter No. NITS/Estt/BoG-80/21/14860-61 dated 25.03.2021 furnished the legal opinion of the Assistant Solicitor General, Gauhati High Court along with the proposal of the institute.

The Ministry of Education vide letter F. No. 15-12/2016-TS.III dated 07.07.2021 sought certain information / data from the institute. Institute vide letter No. NITS/Estt/BoG-80/21 dated 14.07.2021 furnish the requisite information / data.

The Ministry of Education vide letter No F.No.15-12/2016-TS.III dated 04.08.2021 has intimated the institute regarding the same.

The Board is requested to discuss and suggest the steps for implementing the same as per the decision of the Gauhati High Court in Case No. WP(C)/403/2021 and MoE letter F. No. 15-12/2016-TS.III dated 04-08-2021.

DECISION

The institute briefed before the Member of the Board of the Governors the following points:

- I. *The verdict of the The Gauhati High Court in Case No. WP(C)/403/2021 (Champalal Gorh and 59 others vs The Union of India and 6 others) to consider giving minimum scale of pay to Muster Roll Employees of NIT Silchar was placed before the Board in its 80th meeting scheduled on 14.02.2021 wherein the board opined to refer the matter to the Ministry of Education.*
- II. *Institute vide letter No. NITS/Estt/BoG-80/21 dated 11.03.2021 referred the matter to Ministry of Education along with detailed financial implication.*
- III. *The Ministry of Education vide letter F. No. 15-12/2016-TS.III dated 16.03.2021 instructed the institute to seek the legal opinion of the Assistant Solicitor General, Gauhati High Court as to whether the petitioners can be given the minimum scale of pay in terms of the judgment of the Apex court in the case of State of Punjab vs Jagjit Singh and then send the proposal along with the legal advice and Institute's comments for further consideration of the Ministry.*
- IV. *Accordingly institute sought the legal opinion of the Assistant Solicitor General, Gauhati High Court wherein Assistant Solicitor General stated that*

The National Institute of Technology Silchar Assam may first examine and satisfy itself about the claim of the petitioners that



they are rendering the same service as regular employee. If that be so, then they would be entitled to draw wages at the minimum of the pay scale (at the lowest grade, in the regular payscale) extended to regular employees holding the same post”.

- V. *Institute vide letter No. NITS/Estt/BoG-80/21/14860-61 dated 25.03.2021 furnished the Ministry of Education the opinion of Assistant Solicitor General, Gauhati High Court along with the detailed financial implication.*
- VI. *The Ministry of Education vide letter F. No. 15-12/2016-TS.III dated 07.07.2021 sought following information / data from the institute:*
- a. *Point wise number of sanctioned and filled up posts in the Institute;*
 - b. *The details in respect of the Muster Roll workers in the Institute*
 - c. *Clarification regarding 38 MR workers joined the Institute after September, 1993. Vide DoPT OM No.49014/2/86-Estt-C dated 07.06.1988, where there was a clear instructions of Gol that person on daily wages should not be recruited for work of regular nature. The Institute was requested to explain, in contravention of Gol instructions, why MR workers were hired for regular nature of work and now minimum pay is proposed to be given on the ground that MR workers are performing regular nature of work.*
 - d. *DoPT in its O.M. dated 04.09.2019 and advice of the ASG say that nature of work of the daily wager and of the regular post should be the same, the Institute in Para 4 of their letter dated 25.3.2021 states that the MR Workers are performing work similar to the work performed by the regular employees. As the Supreme Court Judgment in the case of State of Punjab Vs. Jagjit Singh distinguishes between same and similar nature of work, the Institute was requested to furnish a clear cut certificate in this regard*
 - e. *Certification regarding whether the volume of work and level of responsibility of MR workers and the regular posts of which they are proposed to be provided the minimum pay scale, are same or not*
- VII. *Institute vide letter No. NITS/Estt/BoG-80/21 dated 14.07.2021 furnished the following information:*
- a. *Point wise number of sanctioned and filled up posts of the institute furnished*
 - b. *The details in respect of the Muster Roll workers in the Institute is furnished. In the same point institute also mentioned that the Ministry of Education (erstwhile Ministry of Human Resource Development) in its communication letter No. F. No. 15-15/2008-TS.III dated 21.04.2017 under the column **Remarks** of table under Para 3 (B) (vi) mentioned that institute has 95 supporting*



staff, from erstwhile REC, against sanctioned 41 positions and the additional 54 surplus staff is to be adjusted against the vacant posts till they retire or get adjusted against their regular posts. Further, in para 4, MoE (erstwhile MHRD) has instructed, as regards to Supporting Staff due to REC legacy, to consider the Muster Roll workers against sanctioned non – teaching positions. The number of Muster Roll workers has now come down to 80 (eighty) due to retirement from service on attaining the age of superannuation.

As the Ministry of Education (erstwhile Ministry of Human Resource Development) has already considered the Muster Roll workers against the sanctioned regular posts, it shows that the Muster Roll workers fulfil essential qualification for the relevant post as per Ministry of Education (erstwhile Ministry of Human Resource Development) letter No. F. No. 15-15/2008-TS.III dated 21.04.2017

- c. Regarding point (c) of MoE letter dated 07.07.2021 institute again mentioned that the Ministry of Education (erstwhile Ministry of Human Resource Development) in its communication letter No. F. No. 15-15/2008-TS.III dated 21.04.2017 under the column **Remarks** of table under Para 3 (B) (vi) mentioned that institute has 95 supporting staff, from erstwhile REC, against sanctioned 41 positions and the additional 54 surplus staff is to be adjusted against the vacant posts till they retire or get adjusted against the regular posts. Further, in para 4, MoE (erstwhile MHRD) has instructed, as regards to Supporting Staff due to REC legacy, to consider the Muster Roll workers against sanctioned non – teaching positions.

It justifies the action of the Institute to allow the Muster Roll workers to perform duties same as that of regular staff.

Furthermore, NIT Silchar is a residential Institute with 11 (eleven) Departments & its Laboratories (86 Teaching Laboratories and 60 Research Laboratories), Central Library (24 × 7), Health Centre (24 × 7), Central Computer Centre (24 × 7) & Sports Complex remaining open for students / scholars of the institute. Staffs in the Ministerial Cadre are required for running the offices of the Director Secretariat including office of the Registrar, 6 (six) Deans, 11 (eleven) Department HoDs office, Purchase, Stores, Estate, Establishment, Accounts and other Administrative sections. Regular maintenance (24 × 7) for Civil, Electrical, Water Supply, IT infrastructure, Internet Facility also require manpower support. The institute has almost 4000 students presently on roll in various Departments.

Entire administration along with the technical infrastructure for running the classes and laboratories are not possible to be run with 66 (sixty six) regular non – teaching staffs (current status). Hence for smooth functioning of the institute MR worker were assigned the regular nature of work and now minimum pay is proposed to be given on the ground that MR workers are performing regular nature of work

- d. The institute certified that the nature of work of the Muster Roll workers are same as the nature of work of the regular posts as per DOPT OM dated 04.09.2019 and advice of the ASG
- e. The institute certified that the volume of work and the level of responsibility of Muster Roll workers and the regular posts of which they are proposed to be provided the minimum pay scale are same

VIII. Based on the aforesaid clarification of the institute the Ministry of Education vide F.No.15-12/2016-TS.III dated 04.08.2021 intimated the following:

Ministry's approval to the proposal for adjusting the Muster Roll workers against the vacant positions of other non-teaching cadre and to fix pay of 69 skilled MR Workers at the minimum of Pay Level-1 and the remaining 15 Highly Skilled MR Workers at the minimum of Pay Level-3. Further, post fixation of minimum pay scale, the Muster Roll Workers shall remain as temporary workers only and shall not be considered as regularly appointed employees

The institute during the meeting also certified that the Muster Roll workers are working in this institute since REC Silchar regime and the nature of work of the Muster Roll workers are same as the nature of work of regular employees and requested before the Board to grant them 1/30 th of the pay at the minimum of the relevant pay scale plus dearness allowance as per DoPT OM No. 49014/1/2017-Estt(C) dated 04.09.2019.


While the meeting was going on institute received a communication from Ministry of Education vide F.No.15-12/2016-TS.III dated 05.08.2021 where in the Ministry supersedes the letter F.No.15-12/2016-TS.III dated 04.08.2021 and instructed to grant the Muster Roll Workers minimum rates of wages as prescribed by the Ministry of Labour & Employment. The same was brought to the knowledge of the Board Members.

It was also pointed out that this is applicable in cases where the work done by a casual worker is different from the work done by a regular employee as per DoPT OM No. 49014/1/2017-Estt(C) dated 04.09.2019. However, institute clarified that nature of work of the Muster Roll workers are same as the nature of work of regular employees and currently the Muster Roll Workers are getting pay as per minimum rates of wages as prescribed by the Ministry of Labour & Employment.



After receipt of the aforesaid communication from Ministry of Education dated 05.08.2021 the Board decided to convey the latest decision of the Ministry of Education to the Honourable Gauhati High Court

The meeting ended with vote of thanks to the Chair.


(Prof. N. B. Dev Choudhury)
Registrar (i/c) & Secretary


(Sri Gautam N Mehra)
Chairperson, BoG