U.S. Department of Homeland Security
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U.S. Citizenship
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[redacted]

FILE: [redacted] Office: WASHINGTON DISTRICT Date: AUG 2 8 2008

IN RE: Applicant: [redacted]

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Washington, D.C. and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Bangladesh who is seeking to adjust her status to that of lawful permanent resident under section 13 of the Act of 1957 ("Section 13"), Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, 8 U.S.C. § 1255b, as an alien admitted under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(ii), and the spouse of a principal alien admitted under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(ii), who performed diplomatic or semi-diplomatic duties.

The field office director denied the Application to Register Permanent Residence or Adjust Status (Form I-485) of the applicant's spouse after determining that the applicant's spouse had failed to demonstrate that he performed diplomatic or semi-diplomatic duties, that compelling reasons prevent his and his family's return to Bangladesh, or that adjustment is in the national interest. *Decision of Field Office Director,* dated September 20, 2007. The field office director denied the applicant's adjustment application on the basis of her spouse's ineligibility for benefits under Section 13. Counsel has appealed both decisions.

In a separate decision, the AAO has dismissed the appeal of the applicant's spouse on the ground that his duties were not diplomatic or semi-diplomatic, and that he failed to establish compelling reasons that prevent his return to Bangladesh as required under Section 13. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of her spouse, the applicant therefore is also ineligible for adjustment of status.

For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under Section 13. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that she is eligible for adjustment of status. The applicant has failed to meet that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.