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U.S. Citizenship  
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FILE:

Office: WASHINGTON DISTRICT

Date: JUL 15 2008

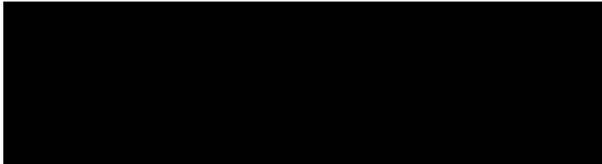
IN RE:

Applicant:



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:



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 District 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 Pakistan who is seeking to adjust his 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 who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(ii).

The district director denied the application on April 30, 2001 on the ground that the applicant had failed to establish that compelling reasons prevent his return to Pakistan and that his adjustment would be in the national interest of the United States.

The district director also denied the adjustment applications of the applicant's wife, [REDACTED] and son, [REDACTED]. In the Form I-290B Notice of Appeal filed on behalf of the applicant, the applicant's former counsel stated that he was also appealing the denials of the applications of the applicant's family members. However, no Form I-290B, with accompanying fee, has been filed on behalf of either the applicant's wife or his son. Consequently, the only matter before the AAO is the denial of the applicant's adjustment application.

On appeal, the applicant's former counsel contended that the district director erred in finding that the applicant does not have compelling reasons that prevent his return to Pakistan. Counsel asserted that the applicant submitted sufficient evidence to support a finding that there are compelling reasons why he and his family are unable to return to Pakistan, and that his adjustment of status is in the national interest.

Section 13 of the Act of September 11, 1957, as amended on December 29, 1981, by Pub. L. 97-116, 95 Stat. 1161, provides, in pertinent part:

(a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Act, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act, and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date [on which] the order of the Attorney General approving the application for adjustment of status is made.

8 U.S.C. § 1255(b).

Pursuant to 8 C.F.R. § 245.3, eligibility for adjustment of status under section 13 of the 1957 Act is limited to aliens who were admitted into the United States under section 101, paragraphs (a)(15)(A)(i), (a)(15)(A)(ii), (a)(15)(G)(i), or (a)(15)(G)(ii) of the Act who performed diplomatic or semi-diplomatic duties and to their immediate families, and who establish that there are compelling reasons why the applicant or the member of the applicant's immediate family is unable to return to the country represented by the government that accredited the applicant, and that adjustment of the applicant's status to that of an alien lawfully admitted to permanent residence would be in the national interest. Aliens whose duties were of a custodial, clerical, or menial nature, and members of their immediate families, are not eligible for benefits under section 13.

The legislative history for Section 13 reveals that the provision was intended to provide adjustment of status for a "limited class of . . . worthy persons . . . left homeless and stateless" as a consequence of "Communist and other uprisings, aggression, or invasion" that have "in some cases . . . wiped out" their governments. Statement of Senator John F. Kennedy, *Analysis of Bill to Amend the Immigration Nationality Act*, 85th Cong., 103 Cong. Rec. 14660 (August 14, 1957). The phrase "compelling reasons" was added to Section 13 in 1981 after Congress "considered 74 such cases and rejected all but 4 of them for failure to satisfy the criteria clearly established by the legislative history of the 1957 law." H. R. Rep. 97-264 at 33 (October 2, 1981).

The AAO now turns to a review of the evidence of record, including the information submitted on appeal. On January 31, 2008, the AAO sent the applicant and his attorney a request for further evidence, allowing the applicant 12 weeks to supplement the record with further evidence to establish his eligibility for adjustment of status under Section 13. To date, the AAO has received no response to this request. Therefore, the record is considered complete. In making a determination of statutory eligibility, Citizenship and Immigration Services (CIS) is limited to the information contained in the record of proceeding. See 8 C.F.R. § 103.2(b)(16)(ii).

A review of the record establishes the applicant's eligibility for consideration under section 13. The applicant was admitted in A-2 status on or about August 10, 1987 and served as an accountant for defense procurement from that date until his term expired and his status was terminated on August 31, 1997. See *Letter from William D. Bent, Chief of Diplomatic Liaison Division, Visa Office, Department of State*, dated April 18, 2001. Therefore, per the requirements of section 13(a) of the 1957 statute, the applicant was admitted to the United States in diplomatic status under 101(a)(15)(A)(ii) of the Act but no longer held that status at the time of his application for adjustment on or about September 22, 1997.

As a result, the only issue before the AAO is whether the record also establishes that the applicant has compelling reasons that preclude his return to Pakistan and that his adjustment will have served U.S. national interests.

In an affidavit dated January 23, 2001, the applicant states that his children are completely acculturated to the United States, and that return to Pakistan would be psychologically damaging to them. The applicant

summarizes his children's activities and accomplishments, particularly their academic accomplishments, and asserts that their academic pursuits and their "future" will be ruined if they are forced to return to Pakistan. The applicant states that he cannot return to Pakistan because he is obligated to pay debts in the form of his mortgage and car payments. The applicant indicates that both of his parents are deceased, so he has "no one to welcome" him back to Pakistan. The applicant contends that "due to political and economic stability" in Pakistan, it will be impossible for him "to get employment and restart [his] life from scratch." The applicant asserts that he and his family members obey the law and contribute to the diversity of the United States. He indicates that he and his family members are employed and pay their taxes. He contends that he and his family contribute to the economy of the United States.

The applicant's stated reasons for not returning to Pakistan are not compelling reasons under Section 13. As discussed above, the legislative history of Section 13 shows that Congress intended that "compelling reasons" relate to political changes that render diplomats and foreign representatives "stateless or homeless" or at risk of harm following political upheavals in the country represented by the government which accredited them. The AAO notes that the applicant has not provided specific information concerning the nature of the referenced political and economic instability or that he fears harm beyond difficulty in finding a job as a consequence thereof. It is also noted that the State Department has objected to the applicant being granted adjustment of status and indicated that it does not believe that he has well-founded fear of persecution in Pakistan. *See Memorandum of William D. Bent, Chief of Diplomatic Liaison Division, Visa Office, Department of State*, dated April 16, 2001. The AAO acknowledges the contributions made by the applicant and his family to the United States and recognizes that their return to Pakistan after having resided in the United States for many years may result in financial and other hardships. However, the general inconveniences and hardships associated with relocating to another country are not compelling reasons under Section 13. The AAO therefore concludes that the applicant has failed to meet his burden of proof in demonstrating that there are compelling reasons that prevent his return to Pakistan.

For the reasons discussed above, the AAO finds that the applicant is not eligible for section 13 adjustment consideration. He has failed to establish that there are compelling reasons preventing his return to Pakistan. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. The applicant failed to meet that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.