

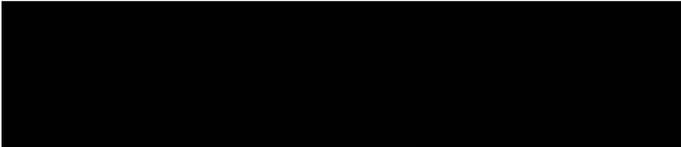
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FILE: [Redacted] Office: WASHINGTON DISTRICT Date: **MAY 29 2008**

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:



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 whose family member performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(A)(ii).

The district director denied the Application to Register Permanent Residence or Adjust Status (Form I-485) of the applicant's father after determining that at the time he applied for adjustment under Section 13, the applicant's father was still maintaining status under section 101(a)(15)(A)(ii) of the Act. *Decision of District Director*, dated November 28, 2007. The district director denied the applicant's adjustment application on the basis of his father'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 father on the ground he was still maintaining status under 101(a)(15)(A)(ii) of the Act at the time of filing and because he did not perform duties of a diplomatic or semi-diplomatic nature as required under Section 13. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of his father, 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 he 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.