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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: EAC 00 033 51641 Office: Vermont Service Center Date: 8 FEB 2002

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER: Self-represented

Public Copy

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the arts. The director determined the petitioner had not established that she has earned sustained national or international acclaim.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). These criteria will be addressed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as [REDACTED]. The regulation at 8 C.F.R. 204.5(h)(3) outlines ten criteria, at least three of which must be satisfied for an alien to establish sustained national or international acclaim. The petitioner has submitted evidence which, she claims, meets the following criteria.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The petitioner states that, in 1988, the Shanghai Labor Bureau certified the petitioner as a National 1st Grade Master of Chinese Cuisine specializing in [REDACTED] style Dim-Sum and banquet preparation. The petitioner cites this certification as an award. The documentation itself, however, indicates only that the petitioner "has been awarded the title of first-level culinary cook," "in conformity with the stipulation of the regulations regarding ranking of technical grades of workers." The certification appears to be a job title rather than a prize or award, and the Shanghai Labor Bureau is a local rather than national or international entity.

A translation of a certificate from the Organization Committee of the 1st World Championship of Chinese Cuisine states that the petitioner "won the 'Golden Metal Award' of [REDACTED]. The word "metal" may be a mistranslation of the word "medal." Several witness letters, discussed further below, refer to the "Golden Metal Award." The petitioner also won a silver medal at the Third National Chinese Cuisine Competition Dim-Sum Contest.

While the record offers little specific information about the awards, witnesses assert that some of the petitioner's awards are among the highest in China in the petitioner's field. Thus, we find that the petitioner has satisfied this criterion.

The petitioner received other awards from the Shanghai [REDACTED]. The petitioner has not shown that these awards are not local to the Shanghai area rather than national.

*Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

The petitioner establishes that she served a five-year term as a council member of the Shanghai Branch of the 4th Chinese Cuisine Association, and that she received a certificate of honor from Chinese Cuisine Association. The record does not, however, establish that the association requires outstanding achievements of its members.

*Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

The petitioner submits copies of assorted newspaper articles, in Chinese with English translations. The petitioner has not established that any of these publications are nationally or internationally circulated. One article appeared in the New Observation Weekly. This Chinese-language newspaper appears to have been published in New Jersey (judging from a comment in the text about "the Shanghai style cooking here in New Jersey") and it appears to be a local rather than a national or international publication. An article in a local newspaper, in a language that most of the local population does not understand, cannot contribute significantly to a national or international reputation.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

The petitioner was the editor in chief of the Chinese Cooking Menu of Bao Cai, essentially a cookbook published by the Shanghai Science and Technology Publication House. The petitioner has also contributed recipes to other cookbooks. The record does not establish the circulation or impact of these books. The act of contributing to the publication of cookbooks is not inherently a major contribution.

The petitioner submits letters from individuals with various connections to the petitioner. [REDACTED] president of Shanghai Tang Restaurant, states:

I knew [the petitioner] a long time ago in Shanghai. [The petitioner] is a gifted and famous young master of Dim-Sum of Shanghai style, who won many national and international awards.  
...

After her arrival in the USA, I invited her to perform once to produce the famous Dim-Sum of Shanghai style in our restaurant during the period of Chinese New Year. Many clients in Flushing, New York like them very much and the [REDACTED] of Shanghai style were well sold during that festival.

[REDACTED] chairman of Leung's Conglomerate and director of the World Association of Chinese Cuisine, states:

I knew [the petitioner] a long time ago when I was a member of judge committee for the 1st world Championship of Chinese Cuisine in 1992 when [the petitioner] won the "Golden Mental Award" of Dim-Sum (personal) in Shanghai. [The petitioner] is a gifted and famous young master, full of artistic imagination. Her opera of "Golden fishes at flower port" presented at the competition caught all attentions of the judges and won the highest comments from the judges.

[redacted] general manager of [redacted] restaurant in [redacted] states:

The [redacted] of [redacted] are . . . exported to all over the world. . . .

[The petitioner] was employed as a chief master of [redacted] by our restaurant after she first won the prize in 1986. . . . In 1992, she won the "Golden Mental Prize" at the 1st World Championship of Chinese Cuisine. . . .

Lots of [redacted] produced by her were selected into cooking books . . . used as text books of Education Training Center, [redacted]. . . . She reached the national top level of this very special field.

Other restaurateurs and hoteliers in [redacted] and [redacted] offer similar praise for the petitioner. The letters all follow a roughly similar format, and many refer to the "Golden Mental Prize" and other specific achievements such as the petitioner's successful trip to Osaka, Japan (Shanghai's sister city).

Other witnesses essentially repeat various claims that we have addressed or shall address elsewhere in the decision. While these witnesses have strong praise for the petitioner, the witnesses consist of the petitioner's current and former employers as well as others who have had close contact with her in the past. Also, the witnesses are heavily concentrated in Shanghai. Their letters are not first-hand evidence that the petitioner is known throughout China. Recognition limited to the Shanghai area is not national acclaim. Furthermore, the witnesses will often make factual claims without explaining how they know those claims to be true, for example discussing the success of the petitioner's 1994 visit to Osaka.

*Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.*

The petitioner states that she "was invited to perform live the [redacted] in Osaka" during a six-day festival. The petitioner asserts that she "made big profits about RMB 10 thousands." The petitioner's sale of [redacted] foods at a cultural event does not constitute the performing arts, and the record contains no first-hand documentary evidence to show that the petitioner consistently sells more [redacted] than other highly experienced chefs.

On August 4, 2000, the director informed the petitioner that the documentation submitted with the petition was not sufficient to establish extraordinary ability. The director clearly set forth

the criteria outlined in section 203(b)(1)(A) of the Act, and specified that the Service has defined "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor."

In response to this letter, the petitioner has submitted copies of previously submitted documents (including a witness letter with a new date which repeats, verbatim, the same witness' earlier letter). The only new exhibits submitted in response to the notice are letters from two previous witnesses, who essentially repeat earlier assertions while offering no new supporting evidence to show that the petitioner is widely regarded as a top [REDACTED] outside of the hotel and restaurant owners who have employed her.

The director denied the petition, stating that the petitioner has not submitted adequate evidence to establish sustained national or international acclaim at the top of her field. On appeal, the petitioner asserts that she has won top awards in her field (which we have already acknowledged, above).

The petitioner argues that, outside of China, no organization exists that is competent to gauge her achievements. That may or may not be true, but it remains that the petitioner must meet at least three of the regulatory criteria at 8 C.F.R. 204.5(h)(3) to qualify for the highly restrictive visa classification she seeks. The petitioner asserts that her medals should be sufficient to place her at the top of her field. By regulation, an award alone is sufficient to establish eligibility only if it is a major, internationally recognized award (such as a Nobel Prize or an Olympic medal). The petitioner has not shown that her awards are on a comparable level of international recognition; indeed, the petitioner has argued that there are no competent international authorities in her field.

The petitioner asserts that her membership in the Chinese Cuisine Association "is the best proof of demonstrating my outstanding ability and skills in this endeavor." The petitioner has not submitted any evidence to establish that membership in that association is restricted to individuals with outstanding achievements, in the manner of (for instance) the U.S. National Academy of Sciences.

The petitioner observes that newspapers have printed articles about her. The record offers no information about these newspapers to allow the conclusion that the petitioner has attracted national (rather than local) media coverage. The petitioner asserts that she was invited to Osaka, Japan. This does not, however, demonstrate an international reputation. The record indicates that Osaka and Shanghai are "sister cities" with a cultural exchange program. The petitioner's visit to Osaka was part of this program,

rather than a result of her own acclaim as a chef, and there is no indication that the petitioner attracted significant attention in Japan outside of the city of Osaka.

The petitioner has demonstrated that she is a very talented Dim-Sum chef, whose services are in demand among the owners of restaurants, hotels, and banquet facilities, but the evidence of record is not sufficient to demonstrate that the petitioner has consistently maintained a reputation as a top chef not only in Shanghai, but at the national or international level.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States.

Review of the record, however, does not establish that the petitioner has distinguished herself as a [REDACTED] to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence indicates that the petitioner is respected and talented, and has earned an enviable reputation in the Shanghai area, but is not persuasive that the petitioner's achievements consistently set her significantly above almost all others in her field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.