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U.S. Department of Homeland Security
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass., 3/F
425 I Street N.W.
Washington, D.C. 20536



File: WAC 02 236 51798

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Petitioner:
Beneficiary:



NOV 19 2003

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:



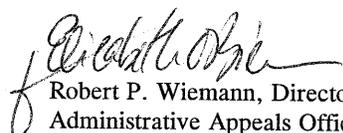
INSTRUCTIONS:

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.

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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) 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 education. The director denied the petition after determining that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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). It should be reiterated, however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. We note that the director found that the petitioner met only one of the ten criteria, found at 8 C.F.R. § 204.5(h)(3)(vi), "evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." On appeal, counsel for the petitioner offers arguments and evidence, including a personal statement of the petitioner, to dispute the director's findings for three of the remaining six criteria. It is those three criteria that will be addressed in this decision.

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

The record contains a Certificate of Appreciation from the Lions Club International, an award from JBAS College, University of Madras, and evidence that the petitioner was selected as "Woman of the Year" by the American Biographical Institute, U.S.A.

In his decision, the director noted that the evidence in the record did not establish that these awards were nationally or internationally recognized awards and that the awards were given to the petitioner for excellence in her field of endeavor. The director dismissed two other certificates of appreciation received by the petitioner as the certificates were awarded for participation in a conference.

On appeal, the petitioner submits a letter from the American Biographical Institute and a letter from Lions Club International. Counsel asserts that the letters detail the criteria upon which the awards were based and asserts that as the awards recognize "extraordinary professional achievement" they "can be deemed 'nationally recognized.'"

While we acknowledge that the letters detail the criteria upon which the petitioner was selected and establish that the awards were given for excellence in the petitioner's field of endeavor, we do not find that the evidence establishes that the awards are recognized either nationally or internationally. Counsel's assertions that these awards are nationally or internationally recognized are not supported by any documentary evidence and do not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Moreover, we note that the letter from Lions Club International states that "[b]y the order of Board of Directors of *this club Chapter* you have been adjudged to receive highest honor of this club...." While the Lions Club may be considered to be an international organization, it appears that the petitioner's award was given not from the board of the international organization, but from the local chapter in Chennai, India. As such, the award is considered to be local in nature.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation

In support of her petition, the petitioner asserts that she has provided research and recommendations to different foundations and government agencies. In his decision, the director noted that there was no independent evidence to show that the petitioner's research or recommendations were ever implemented by the foundations or agencies. The director also found that there was no evidence to establish that the petitioner played a leading or critical role in any of these organizations. We note that the director failed to make any determination as to whether the agencies listed by the petitioner have a distinguished reputation.

On appeal, the petitioner offers letters from the governments of Dubai and Somalia that indicate the petitioner is a "national" expert in child education and development. Counsel asserts that this evidence is offered to rebut the findings of the director that the petitioner had failed to establish a

leading or critical role in organizations or establishments. We do not find that this evidence overcomes the findings of the director.

The letters submitted on appeal do not show that the petitioner has played a role in any organization or establishment, other than to provide recommendations, much less a leading or critical role. Without such evidence we also cannot determine whether any such organization might have a distinguished reputation as required by the regulation.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field

In his decision, the director noted that the petitioner's Form I-140 indicated an annual salary of \$40,000. The director found that he was unable to make a determination as to whether this was significantly high remuneration in relation to others in the field, as the petitioner failed to provide any evidence with which to compare her salary to others in the field.

On appeal, counsel misstates the findings of the director and states that the director "believed that her salary of \$40,000 per year in India was not significant enough...." The petitioner also submits a letter from the University of Madras that states that the petitioner "is being paid the highest salary payable under the category of Professors in the University of Madras-aided colleges...this is the highest salary paid to any professor."

We note that the first time the petitioner asserts that she meets this criterion is on appeal. No evidence regarding the petitioner's salary was submitted with the original petition, nor was any evidence submitted in response to the director's request for evidence, despite the fact that this criterion was included in the director's request.

The claims of the author of the letter are unsubstantiated by any other documentary evidence in the record, such as wage surveys or other objective publications. Though the letter states that the petitioner receives the highest salary that can be paid to a professor, the statement does not mean that other professors within the University of Madras system are not receiving the same salary as the petitioner. Further, there is no evidence that the petitioner earns significantly more than other professors in the petitioner's field, outside of the "University of Madras-aided colleges."

Based on the single letter submitted as evidence of her high salary, the petitioner has failed to demonstrate that her salary is high in relation to other top professors in India.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor. The fundamental nature of this highly restrictive visa classification demands comparison between the petitioner and others in her field. The classification is not meant to be easy to obtain and is for individuals at the rarefied heights of their respective fields. An alien can be successful, but still not have obtained sustained national or international acclaim and be considered at the top of the field.

As it is in this case, an alien who is not at the top of his or her field will be unable to submit extensive documentation to establish such acclaim. The petitioner has not presented any evidence that establishes she has obtained or sustained national or international acclaim as a professor.

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.