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20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: WAC 03 100 54012 Office: CALIFORNIA SERVICE CENTER Date: FEB 22 2005

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

PETITION: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON BEHALF OF PETITIONER:
[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 on appeal. The appeal will be sustained, and the petition will be approved.

The petitioner is an environmental, health, and safety software systems development company. It seeks to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B), as an outstanding professor or researcher. The petitioner seeks to employ the beneficiary as an "Environmental Research Scientist." The director found that the petitioner had not established that the beneficiary is recognized internationally as outstanding in his academic field.

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):

(B) Outstanding Professors and Researchers. -- An alien is described in this subparagraph if-

(i) the alien is recognized internationally as outstanding in a specific academic area,

(ii) the alien has at least 3 years of experience in teaching or research in the academic area,
and

(iii) the alien seeks to enter the United States --

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) outlines six criteria, at least two of which the beneficiary must satisfy in order to establish the international recognition necessary to qualify for classification as an outstanding professor or researcher. The director concluded that the beneficiary had met the criterion pertaining to the authorship of scholarly books or articles. We agree with the director's finding, and find that, based on additional evidence presented on appeal, the beneficiary also satisfies the following criterion.

Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field.

The petitioner originally submitted a letter from [REDACTED] now Executive Director, Integrated Research and Action for Development, an Indian advanced research institute, and formerly a Senior Professor at the Indira Gandhi Institute of Development Research. She states:

In my capacity as the Chairperson of the EERC [Environmental Economic Research Committee], I invited [the beneficiary] as a subject expert in ecology and environmental economics to help us edit about 57 completed final reports and their executive summaries of EERC projects. His grasp of environmental economics had turned him into one of the leading proponents of application of environmental economics

On appeal, the petitioner submitted additional evidence detailing the beneficiary's participation in the EERC project.

The petitioner's appellate submission also included evidence indicating that the beneficiary was an "editor" of at least two published reports issued by the Bombay Natural History Society (BNHS). Documentation provided on appeal indicates that the BNHS is the "largest non-government organization in the Indian subcontinent engaged in nature conservation research."

In this case, while not all of the petitioner's evidence carries the weight imputed to it by counsel, we find that the evidence presented satisfies at least two of the regulatory criteria at 8 C.F.R. § 204.5(i)(3)(i). Therefore, the petitioner has overcome the stated grounds for denial and thereby established that the beneficiary qualifies under section 203(b)(1)(B) of the Act as an outstanding researcher. The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.