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

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

SEP 10 2003

File: WAC 01 217 55314 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [REDACTED]
Beneficiary [REDACTED]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

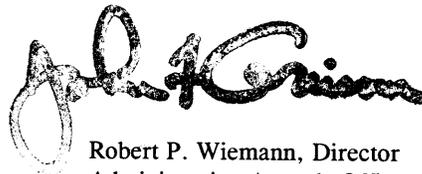
INSTRUCTIONS:

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 the Bureau of Citizenship and Immigration Services (Bureau) 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 immigrant visa petition was denied by the Acting Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. § 1153(b)(4), in order to employ him as a priest.

The acting director denied the petition finding that the evidence of record was not sufficient in establishing that the beneficiary had been performing full-time work as a priest for the two-year period immediately preceding the filing of the petition.

On appeal, the petitioner's president states that the evidence presented is sufficient to establish that the beneficiary has been performing full-time work as a religious worker for the two-year period immediately preceding the filing of the petition.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(c) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States.

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

Regulations at 8 C.F.R. § 204.5(m)(1) state, in pertinent part, that:

An alien, or any person in behalf of the alien, may file an I-360 visa petition for classification under section 203(b)(4) of the Act as a section 101(a)(27)(C) special immigrant religious worker. Such a petition may be filed by or for an alien, who (either abroad or in the United States) for at least the two years immediately preceding the filing of the petition has been a member of a religious organization in the United States. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of

that religious denomination, working for the organization at the organization's request in a professional capacity in a religious vocation or occupation for the organization or a bona fide organization which is affiliated with the organization described in section 501(c)(3) of the Internal Revenue Code of 1986 at the request of the organization. All three types of religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two-year period immediately preceding the filing of the petition.

Regulations at 8 C.F.R. § 204.5(m)(3) state, in pertinent part, that each petition for a religious worker must be accompanied by:

(ii) A letter from an authorized official of the religious organization in the United States which (as applicable to the particular alien) establishes:

(A) That, immediately prior to the filing of the petition, the alien has the required two years of membership in the denomination and the required two years of experience in the religious vocation, professional religious work, or other religious work.

(B) That, if the alien is a minister, he or she has authorization to conduct religious worship and to perform other duties usually performed by authorized members of the clergy, including a detailed description of such authorized duties. In appropriate cases, the certificate of ordination or authorization may be requested.

The issue to be addressed in this proceeding is whether the beneficiary has had the required continuous experience working as a priest during the two-year period immediately preceding the filing date of the petition.

The petition, Form I-360, indicates that the beneficiary entered the United States without inspection on September 17, 1997.

The petition was filed on April 26, 2001. Therefore, the petitioner must establish that the beneficiary was continuously working as a priest from April 26, 1999 until April 26, 2001.

In a letter dated April 14, 2001, the petitioner's president states that the beneficiary has over 10 years of paid working experience as a "Priest" and as a religious worker in different capacities in Pakistan. The letter also states that the beneficiary has performed religious duties for the petitioner "in the past few years." The letter explains that the beneficiary has attained the

position of priest with the petitioning institution due to his education "as Master in Religion from Punjab University Pakistan in 1990." It is noted that the record contains no evidence of this education. The record merely contains a certificate from the University of The Punjab, which indicates that the beneficiary received a Bachelor of Arts Degree in January of 1987.

On appeal, the petitioner's president provided copies of Form 1099, Miscellaneous Income, which shows that for the years 1999 and 2000, the beneficiary was paid the sum of \$18,000.00 by Al-Huda Int'l Educational Center, Inc., located in San Bernardino, CA. The petitioner's president states that the beneficiary had worked with "this religious organization in the same capacity for year of 1999-2000." The petitioner's president also states that this period "is directly related to his religious work performing full-time work as a religious worker for the two-year period immediately preceding the filing of the petition."

The petitioner's president further states that at the time the beneficiary was working with Al-Huda Int'l Educational Center, Inc., he was never a burden to the State, and that funds were provided by his cousin in Pakistan.

The evidence contained in the record fails to demonstrate that the beneficiary had been continuously and solely working as a priest during the two-year qualifying period. The petitioner provides Miscellaneous Income records from another institution and claims that the beneficiary performed religious work for that institution, however, there is no documentary evidence from said institution to support the claim. The record contains no documentary evidence to establish that the beneficiary has ever received any wages from any religious organization in return for the performance of any religious work. Simply stating that Al-Huda Int'l Education Center, Inc. is a "religious organization," and that the beneficiary worked there in a religious capacity during the qualifying period, without supporting documentation, is not sufficient for the purpose of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec, 190 (Reg. Comm. 1972). For this reason, the petition may not be approved.

Beyond the decision of the director, it is determined that the petitioner has provided no documentary evidence to demonstrate that the beneficiary is qualified as a priest. 8 C.F.R. § 204.5(m)(3)(ii)(B). The record contains no documentary evidence to support the petitioner's statement that the beneficiary has the religious education and background to afford him the title of priest. The record does not demonstrate that the beneficiary has had any religious training or taken vows. As the appeal will be dismissed on the grounds discussed, this issue need not be examined further.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.