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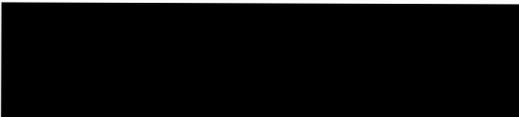
Petitioner:

Beneficiary:



PETITION: Immigrant 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 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.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a Buddhist temple. It seeks to classify 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), to perform services as an abbess. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience in the vocation immediately preceding the filing date of the petition.

On appeal, the petitioner submits a brief from counsel along with photographs, an affidavit from the beneficiary, and other exhibits.

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,

(II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

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

The regulation at 8 C.F.R. § 204.5(m)(1) indicates that the “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.” 8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to demonstrate that, immediately prior to the filing of the petition, the alien has the required two years of experience in the religious vocation, professional religious work, or other religious work. The petition was filed on August 15, 2006. Therefore, the petitioner must establish that the beneficiary was continuously carrying on her religious vocation throughout the two years immediately prior to that date.

In an August 10, 2006 introductory letter, [REDACTED], the petitioner’s Chairman of the Board, stated that the beneficiary’s “appointment . . . to our Temple in February 2006 bestowed her with the responsibility to lead and develop Buddhism in our community. Her induction took place in May 2006.” Elsewhere in the letter, [REDACTED] stated that the beneficiary had served as the petitioner’s abbess for “the past five months,” indicating that the beneficiary began working for the petitioner circa late February or early March of 2006. On the Form I-360 petition, the petitioner indicated that the beneficiary entered the United States on September 20, 2005. This indicates that the beneficiary was in the United States for roughly five months before she began working for the petitioner. Because those five months fall during the two-year qualifying period, the petition cannot be approved unless the beneficiary was continuously engaged in qualifying religious work during that period.

On Form G-325A, Biographic Information, the beneficiary provided the following information:

**Applicant’s residence last five years**

City	From	To
Milwaukee, Wisconsin	1/2006	Present Time
Delhi, India	5/1995	9/2005

**Applicant’s employment last five years**

Employer	Occupation	From	To
[The petitioning] Buddhist Temple	Abbess	2/2006	Present Time
VN Buddhist Research Institute, Vietnam	Commissioner	10/2002	10/2007
Intl. Institute of OBSR, India	Lecturer	7/2002	4/2005
Maha Bodhi Journal, India	Co-Ordinator	2/1999	2/2005

The beneficiary expanded on this information in a résumé, included with the initial filing. The résumé includes a section headed “Positions in Religious Organizations” which reads as follows:

- 2006 [The petitioning] Buddhist Temple Milwaukee, WI  
*Resident Abbess*
- 2002-2005 Vietnamese Buddhist Research Institute HCM City, Vietnam  
*Commissioner (term 2002-2007)*  
Department of World Buddhism and Scriptures Translation,  
The Executive Council of Vietnam Buddhist Sangha, HCM City, Vietnam
- 2002-2005 International Institute of Origin Buddhist Studies and Research Varanasi, India  
*Lecturer*
- Modern Chinese Language

We note that the beneficiary claimed to have held a position in Vietnam while she was working and living in India. The record contains little information about the beneficiary's "commissioner" position except for certificates confirming her appointment.

A February 1, 2002 letter from the Maha Bodhi Society of India confirms the three-year extension of the beneficiary's position "as the Feature and News Coordinator of the 'Maha Bodhi' journal." Other materials in the record indicate that the beneficiary earned a doctorate from the University of Delhi in 2003, and a "Two Year Diploma in Japanese Language" from the same institution in 2005. The beneficiary was, therefore, a student during the time of her Maha Bodhi appointment.

A December 15, 2004 letter from Dharma Chakra Vihar International Institute of Origin Buddhist Studies and Research confirmed the beneficiary's work as an "Honorary Lecturer . . . who has been effectively teaching Diploma course in Modern Chinese Language to the Student of Shastri (B.A.) and Acharya (M.A.) classes." This position, like the Maha Bodhi position, coincided with the beneficiary's own graduate studies.

As shown in the résumé and Form G-325A, the beneficiary herself claimed no qualifying employment between when she entered the United States in September 2005 and when she began working for the petitioner five months later, even when specifically asked to provide information about employment during that time.

In a February 13, 2006 letter to the Most Venerable Thich Man Giac of the Congregation of Vietnamese Buddhists in the United States, Los Angeles, California, [REDACTED] mentioned "the times that [the beneficiary] has stayed at our temple" and praised the beneficiary's "excellent knowledge of Dharma and her teaching skills and leadership." The letter contains no specific dates, but the plural reference to "times" suggests more than one visit.

The initial submission's only reference to the period between September 2005 and February 2006 is in the form of photographs showing the beneficiary's participation in various events said to have taken place during that period, such as a three-day meeting in Hacienda Heights, California, during September 2005 and a speech at a Chicago, Illinois temple in November 2005.

On December 11, 2006, the director issued a request for evidence, instructing the petitioner to provide detailed information and documentary evidence to establish the beneficiary's employment and compensation (or other means of support) throughout the two-year qualifying period. In response, counsel provided the following synopsis of the beneficiary's activities:

**July 2004 through August 2005** – [The beneficiary] was enrolled in the Doctorate of Literature or Post Doctorate (D. Litt.) program in Philosophy of Buddhism at Dr. Bhim Rao Ambedkar University in India. . . . She was awarded a stipend of \$4,000<sup>1</sup> rupees per month during this time. . . .

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<sup>1</sup> Dollar sign (\$) in counsel's original.

During the period from July 2004 through August 2005 [the beneficiary] also worked as a volunteer Feature and News Coordinator for the “Maha Bodhi” Buddhist Journal in India. . . .

**September 2005** – [The beneficiary] attended the Buddha’s Light International Board of Director’s Meeting in Los Angeles, California. Her meals and lodging were paid for by BLIA while she was in attendance. . . .

**September 30<sup>th</sup>, 2005 through January 2006** – [The beneficiary] gave lectures on Bhuddism [*sic*] at Mahayana Buddhist pagodas and monasteries throughout the United States. [Counsel then listed seven events between September 30, 2005 and November 20, 2005.] . . .

**January 2006 to Present** – [The beneficiary] has been employed as the Abbess of [the petitioning] Temple.

The petitioner submitted letters and other materials to corroborate the above timeline. We note that, in the initial submission, both the petitioner and the beneficiary repeatedly stated that the beneficiary became the petitioner’s abbess in February 2006, not January 2006. Materials accompanying the response to the request for information also date the beneficiary’s appointment to February rather than January. Financial records are consistent with, at best, a brief visit by the beneficiary to the petitioning temple in January 2006.

With regard to the beneficiary’s activities prior to her 2005 entry into the United States, university study is not an occupation, religious or otherwise. It is, rather, preparation for future entry into an occupation, or training to facilitate advancement in one’s existing occupation. Furthermore, education is a temporary service purchased by a student (or on the student’s behalf via scholarships), rather than an inherently remunerative activity by which a student can obtain support indefinitely. While study does not preclude a student from performing qualifying religious work, study itself cannot constitute qualifying experience.

Regarding the beneficiary’s experience with the “Maha Bodhi” journal, the record offers little information except to confirm that it took place. The record does not show that this was full-time, compensated work comparable to the beneficiary’s intended position as an abbess. Similarly, the record shows that the beneficiary was “the Commissioner of Department of World Buddhism” at the Vietnam Buddhist Research Institute, but the record says almost nothing about the beneficiary’s duties and activities in that capacity. The beneficiary resided in India and the United States throughout her entire five-year tenure in that position, but the organization is based in Vietnam. It is, therefore, far from clear how much the beneficiary was able to do for the organization from a distance of thousands of miles.

After her arrival in the United States in September 2005, the beneficiary attended a meeting in California and then gave lectures roughly once a week through the autumn of 2005. The petitioner has not established that these lecture visits amounted to continuous (*i.e.*, uninterrupted full-time) activity. There remains a significant gap in the beneficiary’s whereabouts and activities between September 2005 and February 2006.

The director denied the petition on April 25, 2007, stating that the petitioner had failed to provide evidence that the beneficiary performed qualifying religious work during much of the two-year qualifying period. On

appeal, counsel states that the director “failed to make a distinction between what constitutes full time religious work for a lay person and for an ordained minister of religion.” Counsel claims that the beneficiary is an ordained minister, although the petitioner’s submissions, including documents submitted on appeal, tend to indicate that the beneficiary is more accurately termed a nun. Either way, counsel’s next argument is applicable: “a person who has a **religious vocation** must only prove that he or she has been carrying out that vocation” for the two year period immediately preceding the filing of the petition. A person who has a religious vocation is not required to have worked in exactly the same position which is being offered for the past two year period.”

The record establishes that the beneficiary was ordained as a Bhikkhuni or Bhikshuni (defined on appeal as a “Buddhist nun”) in 1991, but it does not follow that the passage of more than two years after ordination is sufficient to establish eligibility. Section 101(a)(27)(C)(iii) of the Act requires that the alien “has been carrying on such vocation” continuously during the two-year qualifying period. Thus, the beneficiary *must not only* be fully qualified in the vocation, but must also have been actively “carrying on” the vocation.

Counsel contends that the full-time employment requirement applies only to “lay workers,” and that the beneficiary, as an ordained minister, is entitled to a different standard of what amounts to “continuous” experience. Setting aside the evidence that the beneficiary is a nun rather than a minister, case law does not support counsel’s argument. An alien seeking classification as a special immigrant minister must have been engaged solely as a minister of the religious denomination for the two-year period in order to qualify for the benefit sought, and must intend to be engaged solely in the work of a minister of religion in the United States. *See Matter of Faith Assembly Church*, 19 I&N 391, 393 (Commr. 1986). Part-time or uncompensated work is not qualifying continuous experience in the vocation of a minister. *See Matter of Varughese*, 17 I&N Dec. 399, 402 (BIA 1980). The Ninth Circuit Court of Appeals has upheld the AAO’s interpretation of the two-year experience requirement for ministers. *See Hawaii Saeronam Presbyterian Church v. Ziglar*, 2007 WL 1747133 (9<sup>th</sup> Cir., June 14, 2007).

Counsel states:

The AAO has found that studying in the U.S. under an F-1 visa may be considered carrying on the vocation “if it can be demonstrated that such study is consistent with the . . . ministerial vocation and provided that the minister continues to perform the duties of a minister of religion.” Letter, Weinig, Acting Ass. Comm. Adjudications CO 204.26 (May 8, 1992). . . .

Although [the beneficiary] was not an F-1 student, her studies were clearly meant to further her ministerial vocation. Further, she continued to carry out the ministerial duties of her religious vocation during the two year period immediately preceding the filing of the petition, as demonstrated by her affidavit and supporting documents.

Counsel also cites the Department of State’s Foreign Affairs Manual (FAM), but the FAM is not binding upon Citizenship and Immigration Services. *See Avena v. INS*, 989 F. Supp. 1 (D.D.C. 1997); *Matter of Bosuego*, 17 I&N 125 (BIA 1979). The FAM provides guidance to employees of the Department of State in

carrying out their official duties, such as the adjudication of visa applications abroad. The FAM is not relevant to this proceeding.

The pursuit of a degree may be *consistent* with the vocation of a minister or a nun, but this does not mean that study *itself* constitutes “carrying on” that vocation. If the studies do not permit the alien to perform the duties of the vocation continuously, then those studies are interruptive of the performance of the vocation.

The petitioner submits a May 18, 2007 affidavit from the beneficiary. This affidavit consists of a series of claims, rather than primary documentary evidence to establish those claims. The beneficiary asserts: “I have been a Bhikshuni and Dharma teacher ever since my ordination in 1991 and continue to be one now. I have never given up my ministerial duties as a Dharma teacher of Buddhism, even when I was a university researcher.” The beneficiary provides a list of individual lectures and other events between June 2004 and April 2005, and submits copies of photographs and invitation letters relating to some of these events. The [REDACTED], Assistant General Society of the Maha Bodhi Society of India stated that the beneficiary “presented papers, conducted Buddhist workshops [and] seminars” while she was a student in India. The petitioner has not shown that this activity was continuous rather than intermittent, nor has the petitioner demonstrated the nature of the beneficiary’s purportedly qualifying activities during the intervals between each of these documented events.

The petitioner has not provided credible, persuasive evidence of the beneficiary’s continuous activity within her vocation prior to February 2006, only six months prior to the petition’s filing date. The AAO therefore affirms the director’s finding that the petitioner has not established that the beneficiary continuously carried on her vocation throughout the two-year qualifying period.

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. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.