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OCT 17 2007

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:  
WAC 06 183 50309

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

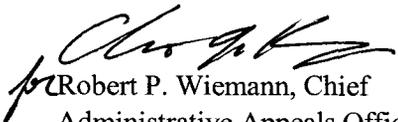
PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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.

  
for 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 Zoroastrian center. 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 a priest. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a priest immediately preceding the filing date of the petition.

On appeal, the petitioner submits a brief from counsel and copies of previously submitted materials.

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 June 6, 2006. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a Zoroastrian priest throughout the two years immediately prior to that date.

At the time of filing, the beneficiary was in Sweden. The record indicates that the beneficiary was outside the United States throughout the two-year qualifying period.

In a jointly signed letter accompanying the initial submission, the petitioner's Board of Directors stated that the beneficiary "has served the Zoroastrian Community in [REDACTED] as priest since he was ordained in 1988." [REDACTED] respectively the Vice President and Cashier of the Zoroastrian Community, Gothenburg, Sweden, stated in a 2006 letter that their organization had employed the beneficiary "since 1/3 2000."

On January 3, 2007, the director instructed the petitioner to submit "evidence of the beneficiary's work history beginning June 6, 2004 and ending June 6, 2006," including evidence of compensation. The director stated: "Documentation containing a language other than English must be submitted with a full English translation. . . . The actual foreign language document must be submitted with the English translation."

In response, the petitioner submitted a copy of a new letter [REDACTED] attesting that the beneficiary has "been working full time (40 hours a week)" at the "centre locat[ed] in Gothenburg/Sweden, starting Nov. 2000 through present time." The letter indicated that the beneficiary was paid for this work. The petitioner submitted copies of salary receipts, identifying the Zoroastrian Community as the beneficiary's employer. One receipt covers June 2004, the other June 2006. The receipts are marked as having been "[t]ranslated from Swedish"; the record does not include copies of the Swedish-language originals.

The director denied the petition on May 11, 2007. Although the director stated "[t]he petition will be denied on two grounds," the director only cited one ground. The director acknowledged the petitioner's submission of "two English translations of salary receipts for the beneficiary. However, no foreign language documents were provided as requested." The director also observed that "[t]he submitted receipts appear to cover only two months of time."

On appeal, counsel states that the two pay stubs, coupled with the two employer's letters, "**constitute sufficient Proof** that [the beneficiary] is a full time employee [with] salary Of the 'Zoroastrian Community Center' located in Gothernburg [sic] / Sweden" (counsel's emphasis). Counsel asserted that the director "only considered the check stubs and disregarded the two accompanying verifications of employment."

Counsel never addresses the director's observation that the petitioner did not comply with the request for copies of foreign-language originals along with English translations. Counsel asserts, without explanation, that proof of two non-consecutive months' salary, only one month of which fell during the qualifying period, is "sufficient proof" of two years of continuous employment. Counsel does not explain why, if records are available of the beneficiary's employment, the petitioner submitted the pay records from only one relevant month.

The only materials that specifically indicate that the beneficiary worked continuously are two letters from the Zoroastrian Community in Gothenburg. The letters disagree on the starting date of the beneficiary's employment, the first stating "1/3 2000" and the other stating "Nov. 2000." Also, the first letter is attributed

to “ [REDACTED] the second letter is attributed to “ [REDACTED] and “ [REDACTED]” These inconsistencies raise questions about the reliability of the letters. Doubt cast on any aspect of the petitioner’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Keeping in mind the above discrepancies, we note that counsel indicated that section 6 of the petitioner’s initial submission consisted of “work certificate[s]” from the beneficiary’s former employers in Iran and Sweden. These letters indicate that the beneficiary worked for plastics companies in the 1980s and 1990s. The letters all fall outside the two-year qualifying period, but they demonstrate that the beneficiary worked in the plastics industry long after 1988, which is the year the beneficiary is said to have become a priest. Given this information, evidence of the beneficiary’s service as a priest does not rule out concurrent secular employment.

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). We note that the Ninth Circuit Court of Appeals, within whose jurisdiction this proceeding arose, has upheld the AAO’s interpretation of the two-year experience requirement. See *Hawaii Saeronam Presbyterian Church v. Ziglar*, 2007 WL 1747133 (9<sup>th</sup> Cir., June 14, 2007).

The evidence that the beneficiary continued to work in private industry long after he became a priest takes on additional significance in the face of the petitioner’s failure to submit comprehensive, substantive evidence regarding the beneficiary’s employment during the qualifying period. The petitioner has not demonstrated that the beneficiary worked *exclusively* as a priest during the 2004-2006 qualifying period.

For the above reasons, we affirm the director’s finding that the petitioner has not established that the beneficiary worked continuously as a priest for two years immediately preceding the filing of the petition. 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.