



U.S. Citizenship
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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: JUL 02 2008
EAC 03 266 53062

IN RE: Petitioner: [Redacted]

PETITION: Petition for Special Immigrant Retired Officer or Employee of an International Organization Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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. Wieman, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as a special immigrant pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as a retired officer or employee of an international organization. In a decision dated March 29, 2006, the director denied the petition, finding the petitioner ineligible for classification. The petitioner filed a timely appeal on June 5, 2006.¹

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

(iii) . . . is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or adjustment of status to a status under this subparagraph and *for a period or periods aggregating at least fifteen years before the date of the officer or employee's retirement* from any such international organization, and (II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration Technical Corrections Act of 1988, whichever is later

[Emphasis added.]

The petitioner bases his claim of eligibility on his employment with the Inter-American Development Bank (IADB). According to the evidence contained in the record, the petitioner was employed with the IADB from December 1, 1990 to August 31, 2003, when he retired.

The director denied the petition, finding that although the petitioner had established the required residence and physical presence in the United States, he had not been in the United States for an aggregate period of at least fifteen years.

On appeal, the petitioner does not dispute that he failed to establish that he had fifteen years in the aggregate. Rather, he argues that although he had thirteen years as a G-4 nonimmigrant, the time he worked makes up “about eighty-five percent (85%) of the total required period before the date of [his] retirement.” The petitioner further argues that his retirement was “mandatory (in accordance with the [IADB’s] personnel regulations)” and states that “[i]f it had been up to [him] to decide, very eagerly and voluntarily [he] would have continued to work . . . for several years more, thus surpassing the fifteen years to fully comply with the requirement.”

The petitioner’s assertions that he has met 85% of the nonimmigrant status requirement and that he could have worked longer if allowed, are not persuasive. The plain language of the statute requires a total of fifteen years as a G-4 nonimmigrant, not a fraction thereof. As the petitioner failed to establish that he worked for an

¹ Although the director initially questioned the timeliness of the petitioner’s appeal, the petitioner has established that although the decision was dated March 29, 2006, the decision was actually postmarked May 2, 2006. Therefore, while the appeal is dated more than 33 days after the date contained on the decision, the petitioner has established that the appeal was timely filed.

aggregate period of at least fifteen years as a G-4 nonimmigrant for a qualifying organization prior to his retirement, he is ineligible for immigrant classification pursuant to section 203(b)(4) of the Act.

The burden of proof in these proceedings rests solely 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 director's decision is affirmed. The petition is denied.