



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



PENDING COPY

File: EAC 98 231 53005 Office: Vermont Service Center Date: MAR 6 2001

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

Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(i)(b)

IN BEHALF OF PETITIONER [Redacted]

Identification data deleted to prevent identity theft

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 Service 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: Approval of the nonimmigrant visa petition was revoked by the director and is now before the Associate Commissioner for Examinations on appeal. The director's decision will be withdrawn and the matter remanded to him for further action and consideration.

The petitioner is a computer consulting firm which seeks to employ the beneficiary as a computer programmer for a period of three years. The director denied the petition upon receipt of derogatory information from the Consulate Section of the American Embassy in New Delhi, India. The consular officer found that the beneficiary lacked knowledge of the basic fundamentals of computing.

On an unspecified date, the director provided the petitioner with a letter outlining the reasons why he intended to revoke the approval of the petition.

The record shows that the petitioner submitted documents which were received by the director on June 25, 1999 outlining reasons why the petition should not be denied.

On September 30, 1999, the director provided the petitioner with a second letter outlining the reasons why he intended to revoke the approval of the petition. On February 4, 2000, the director revoked the approval of the visa petition based on a finding that the petitioner had failed to respond to the September 30, 1999 notice of intended revocation.

Therefore, the case must be remanded to the director so that he may enter a new decision taking into account the petitioner's timely response to the director's first notice of intent to revoke the approval of the visa petition. The director shall either allow the approval to stand or enter a new decision revoking the approval of the petition.

ORDER: The director's denial decision is withdrawn. The case is remanded for appropriate action and decision consistent with the above discussion.