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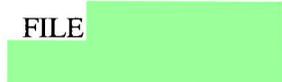
U.S. Citizenship  
and Immigration  
Services



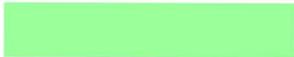
Date: **AUG 11 2014**

Office: NATIONAL BENEFITS CENTER

FILE

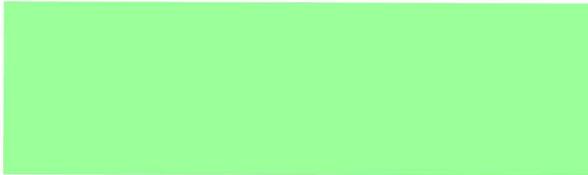


IN RE: Applicant:



APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, National Benefits Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Pakistan who is seeking to adjust his status to that of lawful permanent resident under section 13 of the Act of 1957 (“Section 13”), Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, 8 U.S.C. § 1255b, as an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(ii).

The director denied the application for adjustment of status after determining that the applicant had not established that he performed diplomatic or semi-diplomatic duties.<sup>1</sup> *Decision of National Benefits Director*, dated March 25, 2014.

On appeal, counsel asserts that the director erred in denying the application as the applicant, who worked as a Consular Assistant at the [REDACTED] Illinois, was performing diplomatic and semi-diplomatic duties, and warrants the designation of, at least, semi-diplomatic duties within the meaning of the regulation.

Section 13 of the Act of September 11, 1957, as amended on December 29, 1981, by Pub. L. 97-116, 95 Stat. 1161, provides, in pertinent part:

(a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Act, who has failed to maintain a status under any of those provisions, may apply to the [Department of Homeland Security] for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) If, after consultation with the Secretary of State, it shall appear to the satisfaction of the [Department of Homeland Security] that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act, and that such action would not be contrary to the national welfare, safety, or security, the [Department of Homeland Security], in its discretion, may record the alien's lawful admission for permanent residence as of the date [on which] the order of the [Department of Homeland

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<sup>1</sup> The director also noted that the Department of State issued its opinion on December 31, 2013, advising that it could not make a favorable recommendation in this case as the applicant had not established compelling reasons that prevent his return to Pakistan.

Security] approving the application for adjustment of status is made. 8 U.S.C. § 1255b(b).

Pursuant to 8 C.F.R. § 245.3, eligibility for adjustment of status under Section 13 is limited to aliens who were admitted into the United States under section 101, paragraphs (a)(15)(A)(i), (a)(15)(A)(ii), (a)(15)(G)(i), or (a)(15)(G)(ii) of the Act who performed diplomatic or semi-diplomatic duties and to their immediate families, and who establish that there are compelling reasons why the applicant or the member of the applicant's immediate family is unable to return to the country represented by the government that accredited the applicant, and that adjustment of the applicant's status to that of an alien lawfully admitted to permanent residence would be in the national interest. Aliens, whose duties were of a custodial, clerical, or menial nature, and members of their immediate families, are not eligible for benefits under Section 13.

The legislative history for section 13 of the Act reveals that the provision was intended to provide adjustment of status for a "limited class of . . . worthy persons . . . left homeless and stateless" as a consequence of "Communist and other uprisings, aggression, or invasion" that have "in some cases . . . wiped out" their governments. Statement of Senator John F. Kennedy, *Analysis of Bill to Amend the Immigration and Nationality Act*, 85th Cong., 103 Cong. Rec. 14660 (August 14, 1957). The phrase "compelling reasons" was added to section 13 of the Act in 1981 after Congress "considered 74 such cases and rejected all but 4 of them for failure to satisfy the criteria clearly established by the legislative history of the 1957 law." H. R. Rep. 97-264 at 33 (October 2, 1981).

A review of the record establishes the applicant's eligibility for consideration under Section 13 of the 1957 Act. The applicant last entered the United States on June 19, 2004, as an A-2 non-immigrant to work for the [REDACTED] Illinois as an Administrative Assistant. The applicant's employment status was terminated on May 9, 2009. Pursuant to the requirements of section 13(a) of the 1957 statute, the applicant was admitted to the United States pursuant to 101(a)(15)(G)(i) of the Act but no longer held that status at the time he filed this application for adjustment on June 15, 2009.

Although the record shows that the applicant was admitted under section 101(a)(15)(G)(i) of the Act and no longer maintained that status at the time he filed for adjustment of status, the director found that the applicant's duties as an administrative assistant were administrative in nature and not in any way diplomatic. We observe that the terms diplomatic and semi-diplomatic are not defined in section 13 of the Act or pertinent regulations. We also acknowledge that the standard definitions of terms such as diplomat, diplomatic and diplomacy are varied and broad, and that, in practice, diplomacy may encompass many responsibilities and duties. We find that the essential role of a diplomat is the representation of a country in its relations with other countries. *See American Heritage Dictionary of the English Language, 4th Edition, 2000* (Diplomat: One, such as an ambassador, who has been appointed to represent a government in its relations with other governments); *Black's Law Dictionary, 8th Edition, 2004* (Diplomacy: The art and practice of conducting negotiations between national governments). The inclusion of the term semi-diplomatic in 8 C.F.R. § 245.3 indicates that those accredited aliens not engaged in diplomatic duties, but who

perform duties in direct support and furtherance of such activities, may also be considered for adjustment of status under section 13 of the Act, unless their duties were merely custodial, clerical or menial. However, duties that are not exactly custodial, clerical, or menial are not necessarily diplomatic or semi-diplomatic duties. U.S. Citizenship and Immigration Services (USCIS) must rely on a detailed description of the duties to enable a thorough review and accurate conclusion regarding the nature of the described duties and whether the duties are diplomatic or semi-diplomatic duties or are not.

Along with his Form I-485 application, the applicant submitted a letter dated May 14, 2009 from Dr. [REDACTED] the Consul General at the [REDACTED] Illinois, who indicated that the applicant had worked at the consulate as a [REDACTED]. This letter, however, does not go into detail about the applicant's duties.

In the applicant's sworn statement dated February 1, 2012, the applicant declared that his duties and responsibilities consisted of consular work; serving the Pakistani public.

On appeal, counsel submits a photocopy of a typewritten statement on the letterhead stationery of the [REDACTED] Ontario, Canada. The undated letter describes the applicant's duties at the [REDACTED] Illinois as:

. . . incharge [sic] of all consular duties with the Consulate General. In that capacity [the applicant] also worked with official delegations from Pakistan and performed many useful political, commercial and diplomatic tasks. [The applicant] has been recognized within the Ministry as a good and valuable team member, especially with the diplomatic wing dealing in relations between Pakistan and the United States.

This letter is of minimal probative value and carries little evidentiary weight as 1) it is not dated; 2) the title of the signatory is silent; and, 3) it does not indicate how the signatory, who is in another country, is aware of and can attest to the applicant's duties in [REDACTED] Illinois. No compelling explanation has been offered to explain why a statement from an individual in Canada was provided in an attempt to clarify the applicant's duties that occurred in [REDACTED] Illinois. As the applicant was employed at [REDACTED] Illinois, and still resides in Illinois, a letter from the consulate there would carry greater weight.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

We find that the evidence furnished throughout the application process is insufficient to establish that the applicant performed duties that were diplomatic or semi-diplomatic in nature. For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under section 13 of the Act

As the applicant has not established that he performed diplomatic or semi-diplomatic duties as required under section 13 of the Act, the issues of whether the applicant has established compelling reasons that prevent his return to Pakistan and whether his adjustment is in the national interest of the United States need not be addressed.

Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. The applicant has failed to meet that burden.

**ORDER:** The appeal is dismissed.