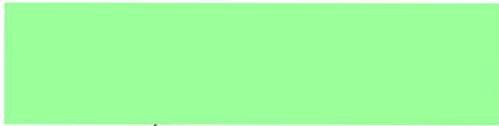




U.S. Citizenship  
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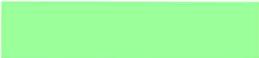


DATE: JAN 06 2014

OFFICE: NATIONAL BENEFITS CENTER



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: SELF-REPRESENTED

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,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the National Benefits Center Director. 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)(G)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(G)(i).

The director denied the application for adjustment of status after determining that the applicant had failed to demonstrate that compelling reasons prevent his return to Pakistan. The director also noted that the Department of State issued its opinion on January 26, 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. *Decision of National Benefits Director*, dated March 5, 2013.

On appeal, the applicant asserts that the director erred in his decision; and, that he has established compelling reasons that prevent his return to Pakistan and that the director did not consider the evidence of compelling reasons submitted. The applicant states that his reasons for staying in the United States - his employment, educational, professional and social opportunities for his children, etc. amounts to compelling reasons under Section 13. The applicant contends further that conditions in Pakistan, including social, cultural, and lack of educational opportunities for his children, preventing his and his family's return amounts to compelling reasons under Section 13. The applicant submits a statement claiming that in 2010 his parents in Pakistan received repeated and regular threats that he (the applicant) and his (the applicant's) family would be assassinated because of the applicant's past political activities.

As stated in the director's March 5, 2013 denial, the single issue in this proceeding is whether the applicant has established compelling reasons preventing his return to Pakistan.

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 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.

The legislative history for Section 13 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 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).

The AAO now turns to a review of the evidence of record, including the information submitted on appeal. In making a determination of statutory eligibility, U.S. Citizenship and Immigration Services (USCIS) is limited to the information contained in the record of proceeding. See 8 C.F.R. § 103.2(b)(16)(ii).

A review of the record established the applicant's eligibility for consideration under Section 13 of the 1957 Act. The applicant last entered the United States on May 1, 2008, as a G-1 non-immigrant to work for the [redacted] United Nations in New York as an Information Assistant. He was employed in a semi-diplomatic position until March 10, 2010. His status was terminated as of March 30, 2010. The applicant applied for adjustment of status on April 2, 2010. Per 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 April 2, 2010.

The record shows that the applicant was admitted under section 101(a)(15)(G)(i), of the Act. The record establishes that the applicant performed diplomatic or semi-diplomatic duties as an Information Assistant. The AAO concurs with the director's determination that the applicant established that he performed diplomatic or semi-diplomatic duties.

Upon review of the applicant's sworn statement before a USCIS immigration officer on November 14, 2011, the applicant's assertions on appeal, as well as the current country conditions in Pakistan, the AAO finds that the applicant has not provided compelling reasons

related to political changes in Pakistan that rendered him as a foreign representative “stateless or homeless” or at risk of harm following political upheavals in the country represented by the government which accredited him. The record does not include evidence showing that the applicant is at greater risk of harm because of his specific past government employment, political activities or other related reasons, including his employment as an Information Assistant. It is noted that by his own sworn testimony before an immigration officer on November 14, 2011, when asked what compelling reason prevents his return to Pakistan, the applicant stated that “the main purpose is the education of [his] kids.” He stated that according to the media, because of the circumstances in Pakistan once the people there know that his family is back from the USA, they can be kidnapped or killed; that his four daughters cannot freely attend school or college in Pakistan as they can in the United States; and, that “... life security, especially for [a] person who used to live in America, is very dangerous.” The applicant further stated that he believes that because he lived in the United States he will be persecuted.

On appeal, however, the applicant states that he fears persecution by Taliban terrorists because he was a well-known member of the [redacted] party. He states that “In 2010, my parent repeatedly received regular threats from ‘Taliban Factors’ to assassinate [him (the applicant)] and [his (the applicant’s) family members on return to Pakistan. They put [his] family’s name in the HIT LIST.” However, the applicant does not provide additional evidence regarding any of the claimed threats. There is no indication in the documentation provided that the applicant would be singled out or targeted by an opposing organization as he claims on appeal. The record does not include evidence showing that the applicant is at greater risk of harm because of his specific past government employment, political activities or other related reasons, including his employment as a information assistant.

The record is devoid of any evidence to establish whether any of the claimed threats from the Taliban or from any other group on account of the applicant’s political activity are genuine. Although, on appeal, the applicant claims that in 2010 his parents regularly received threats to assassinate him and his family members, in his November 14, 2011 sworn testimony before an immigration officer, the applicant made no mention of any threats from either the Taliban, or any other person(s), group(s), or organization(s) on account of his political activity. Given the seriousness of the threats the applicant now claims his parents received in 2010, it is reasonable that the applicant would have expressed this fear during his interview in November 2011. These discrepancies cast considerable doubts on the applicant’s claim that his parents were “repeatedly and regularly” threatened that the applicant and his family would be assassinated. Doubt cast on any aspect of the applicant’s proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify these discrepancies in the record pertaining to his claim that he and his family members have been threatened with assassination.

The applicant’s fear it is speculative and no evidence has been presented that the applicant or his family would be targeted by the government of Pakistan or any other person(s), group(s) or organizations(s).

We also note the applicant's concerns of unfavorable social conditions, including attitudes towards women, women's education, etc. in Pakistan. Though the applicant's family's concerns regarding social conditions are unfortunate, there is no humanitarian exception to the requirement that the applicant demonstrate compelling reasons prevent his return to Pakistan.

As set forth in the director's decision, the legislative history of Section 13 shows that Congress intended that "compelling reasons" relate to political changes that render diplomats and foreign representatives "stateless or homeless" or at risk of harm following political upheavals in the country represented by the government which accredited them. Section 13 requires that an applicant for adjustment of status under this provision have "compelling reasons demonstrating that the alien is *unable* to return to the country represented by the government which accredited the applicant. (Emphasis added). The term "compelling" must be read in conjunction with the term "unable" to correctly interpret the meaning of the words in context. Thus, reasons that are compelling are those that render the applicant unable to return, rather than those that merely make return undesirable or not preferred from the applicant's perspective. Desiring to establish a life in the United States is not a compelling reason under Section 13. Similarly, the general hardship with relocating to another country is not a compelling reason under Section 13. The documentation provided does not present compelling reasons that prevent the applicant from returning to Pakistan. The applicant has failed to meet his burden of proof in this regard. As the applicant has not established that there are compelling reasons that prevent his return to Pakistan, the question of whether adjustment of status would be in the national interest need not be addressed.

For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under Section 13. He has failed to establish that there are compelling reasons preventing his return to Pakistan. 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. The application remains denied.