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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

DATE: JUN 1 6 2014 Office: NATIONAL BENEFITS CENTER FILE: MSC

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 Director, National Benefits Center. 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, 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 failed to demonstrate that compelling reasons prevent his return to Pakistan.[1] *Decision of the Director,* dated January 27, 2014.[2]

On appeal, the applicant asserts that he has clearly demonstrated the compelling reasons regarding the political instability and high risk of harm by terrorists and other extremists in Pakistan. The applicant states that individuals returning to Pakistan from the United States "are at a much high level of risk when it comes to kidnapping for money and killing." The applicant states that there is a major threat of terrorist attacks for individuals residing in Pakistan, and that there is no doubt that he and his family will experience difficulties and life threats upon returning 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.
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> (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

[1] The director also noted that the Department of State issued its opinion on December 16, 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.

[2] On the same date, the director denied the applications of the applicant's spouse and his two children. The dependents have not filed a Form I-290B, Notice of Appeal or Motion, from the director's decision.

> 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 of the Act 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 of the Act.

A review of the record establishes the applicant's eligibility for consideration under section 13 of the Act. The applicant last entered the United States on July 8, 2007, as an A-2 non-immigrant to work for the Pakistan Embassy in Washington, D.C, as an [redacted] The applicant was employed in a semi-diplomatic position until his status was terminated on [redacted] 2012. 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 February 24, 2012.

Upon review of the applicant's sworn statement before a USCIS immigration officer on July 10, 2012, 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 [redacted] It is noted that when asked what compelling reason prevents his return to Pakistan, the applicant, in his sworn testimony, stated that he felt safe in the United States, that there were more job opportunities, and that the education system was better in the United States.

Though the applicant'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. The AAO notes that that although the applicant's fear may be real, it is speculative and no evidence has been presented that the applicant or his family would be targeted by the government of Pakistan.

As set forth in the director's decision, the legislative history of section 13 of the Act 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 of the Act 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 of the Act. Similarly, the general hardship with relocating to another country is not a compelling reason under section 13 of the Act. The statements provided by the applicant do not present compelling reasons that prevent him 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 of the Act. The applicant 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.