



U.S. Citizenship
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Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: SEP 07 2005

IN RE:

Petitioner:



Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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.

Marie Johnson

en Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has earned sustained national or international acclaim at the very top level.

This petition, filed on July 29, 2003, seeks to classify the petitioner as an alien with extraordinary ability as a Geographic Information Systems (GIS) Consultant.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence pertaining to the following criteria.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local or regional level. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence of his membership in the American Society for Photogrammetry and the Indian National Cartographic Association. The record, however, does not include the bylaws or official admission requirements for these organizations. There is no indication that admission to membership in these organizations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

We withdraw the director's finding that this criterion has been met. As previously noted, the regulation at 8 C.F.R. § 204.5(h)(3) provides that "a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Evidence of the petitioner's participation as a judge must be evaluated in terms of these requirements.

The petitioner submitted a letter from [REDACTED] Retired Head, Research Management Coordination Unit, Central Research Institute for Dryland Agriculture (CRIDA), Hyderabad, India, who states:

This is to certify that [the petitioner] has provided Technical Support to CRIDA . . . in the capacity of a Scientist from ICRISAT (International Crops Research Institute for the Semi Arid Tropics).

He has been on the Technical Advisory Committee of CRIDA for GIS along with other Senior GIS (Geographic Information Systems) Specialists who have attained significant levels of expertise in this field.

[REDACTED]'s letter, however, does not state that the petitioner has served as a judge of the work of other GIS specialists.

The petitioner also submitted correspondence (dated April 1996) from [REDACTED] Deputy Director, Geophysical Research Institute, Hyderabad, to the petitioner, stating: "Thank you very much for making

yourself available to join the Panel and to review the Oil and Natural Gas Commission Project using GIS. Your comments and suggestions have been noted and highly appreciated." There is no evidence showing that serving on this panel is indicative of national or international acclaim. Nor is there any indication as to whether the petitioner's comments and suggestions were the final authority on the project.

Furthermore, we cannot ignore the statute's demand for *sustained* national or international acclaim. Subsequent to 1996, there is no indication that the petitioner has evaluated the work of others in the GIS field. The limited nature of petitioner's review activity during the 1990's is not indicative of *sustained* national or international acclaim.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The petitioner submitted several letters of support from individuals who employed the petitioner or who were affiliated with projects involving the petitioner. These letters indicate that the petitioner has performed admirably on various projects, but they offer no information regarding how the petitioner's work has significantly impacted the overall GIS field. With regard to the personal recommendation of individuals who have worked with the petitioner, the source of the recommendations is a highly relevant consideration. These letters are not first-hand evidence that the petitioner has earned sustained acclaim outside of his affiliated institutions. If the petitioner's reputation is mostly limited to those with whom he has worked, then he has not achieved national or international acclaim regardless of the expertise of his witnesses. An individual with sustained national or international acclaim should be able to provide ample unsolicited materials reflecting that acclaim.

In this case, there is no indication that the petitioner's past contributions far exceed those of other experienced GIS specialists. Without extensive documentation showing that the petitioner's work has been unusually influential or highly acclaimed throughout the greater field, we cannot conclude that his work rises to the level of a contribution of *major* significance.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner submitted evidence of his authorship of a paper published in *Geographical Information System - Theory and Practice*. The petitioner also submitted evidence showing that he coauthored informational bulletins prepared by ICRISAT. We do not find, however, that publication of scholarly papers is presumptive evidence of sustained national or international acclaim; we must also consider the greater scientific community's reaction to those papers. When judging the influence and impact that the petitioner's work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that others have relied upon the petitioner's findings. Frequent citation by independent scientists, however, would demonstrate widespread interest in, and reliance on, the petitioner's work. If, on the other hand, there are few or no citations of an alien's work, suggesting that that work has gone largely unnoticed by the greater scientific community, then it is reasonable to conclude that the alien's work is not nationally or internationally acclaimed. In the present case, there is no

evidence showing that the petitioner's published papers are widely cited or that those papers are acclaimed outside of his circle of acquaintances.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The petitioner submitted a July 28, 1997 letter from [REDACTED] Director General, ICRISAT, who states:

This is to certify that [the petitioner] served ICRISAT well for the last six years (1991-1997) as a Scientist (GIS). His appointment in 1991 coincided with the introduction of GIS at ICRISAT, and his subsequent years of service saw the development of the technology at the Institute.

His responsibilities as a Scientist were to manage PC-based GIS; to assist senior staff organize and interpret datasets relevant to Agriculture in the Semi-Arid Tropics (SAT); and to participate in interdisciplinary research and training activities to help accelerate transfer of SAT technologies to farmers.

On appeal, the petitioner argues that he performed in a leading or critical role for ICRISAT. We cannot ignore that the petitioner's relationship to that of the "senior staff" at ICRISAT was that of a subordinate. The record contains no evidence showing the extent to which the petitioner has exercised substantial control over personnel or operational decisions executed on behalf of ICRISAT. Nor is there evidence indicating that the petitioner's role was of significantly greater importance than that of the other scientists employed by ICRISAT (including the "senior staff"). We find the petitioner's evidence fails to demonstrate that he has performed in a leading or critical role for a distinguished organization, or that his involvement has earned him sustained national or international acclaim.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

On appeal, the petitioner submitted a letter from [REDACTED] Senior Manager, Human Resources, ICRISAT, who states: "Category IV is the entry level for Scientist positions, and a Ph.D. is a prerequisite for this position. . . . ICRISAT offered [the petitioner] the position of Scientist in Category IV granting 4 advance increments in the scale. [The petitioner] served ICRISAT in this position from 25 April 1991 to 15 July 1997."

The plain wording of this criterion requires the petitioner to submit evidence of a high salary "in relation to others in the field." In this instance, the petitioner has provided salary information that is limited to his former employer. The petitioner offers no basis for comparison showing that his compensation at ICRISAT was significantly high in relation to others in his field. Furthermore, subsequent to his arrival in the United States in 2001, there is no indication that the petitioner has earned a level of compensation that places him at the top of his field.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit

prospectively the United States. The petitioner in this case has failed to demonstrate that he meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely 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 appeal is dismissed.