



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: DEC 01 2014 OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: PETITIONER: [REDACTED]
BENEFICIARY: [REDACTED]

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:

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 Director, Texas Service Center, denied the employment-based immigrant visa petition on April 3, 2014. The petitioner, who is also the beneficiary, appealed the decision to the Administrative Appeals Office (AAO) on May 6, 2014. The appeal will be sustained and the petition will be approved.

According to the petition and accompanying documents the petitioner filed on February 11, 2014, the petitioner seeks classification as an alien of extraordinary ability in the sciences as an expert in the area of tuberculosis prevention, diagnosis, and treatment, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined that the petitioner did not establish his sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. See section § 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien, as initial evidence, can present evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i)-(x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, the petitioner submits an appellate brief and supporting documents, some of which the petitioner had previously filed in support of his petition. The petitioner asserts that: (1) the director erred in concluding he did not meet the criteria under the regulation at 8 C.F.R. § 204.5(h)(3)(i), (v) and (viii), and (2) in the final merits determination, the director erred in concluding that the petitioner was not at the very top of his field and that he lacked sustained national or international acclaim. For the reasons discussed below, the petitioner has established his eligibility for the exclusive classification sought.

I. THE LAW

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 into the United States will substantially benefit prospectively the United States.

United States Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through initial evidence of a one-time achievement, that is a major, internationally recognized award, or through the submission of qualifying evidence under at least three of the ten categories of evidence listed under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

II. ANALYSIS

A. Evidentiary Criteria

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner, as initial evidence, may present evidence of a one-time achievement that is a major, internationally recognized award. In this case, the petitioner has not asserted or shown through his evidence that he is the recipient of a major, internationally recognized award at a level similar to that of the Nobel Prize. As such, as initial evidence, the petitioner must present at least three of the ten types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements. The director concluded that the petitioner meets the published material about the petitioner criterion at 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), and the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi).

The record supports the director's conclusion that the petitioner meets the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). With respect to the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), the record includes email correspondence showing that the petitioner has served as a reviewer for the [REDACTED].¹ In addition, according to a March 2014 letter from Dr. [REDACTED], Editor of [REDACTED], an [REDACTED] health magazine, confirms that the petitioner served as the editor of this magazine from 1999 to 2004. According to one of the letters from Dr. [REDACTED] Honorary Secretary General of [REDACTED] the petitioner was "a member of the advisory board of [REDACTED] during the year 2004-2005. During this tenure and even since then, [the petitioner] has been contributing to the Journal by advising the [REDACTED] in the selection of appropriate articles to be published

¹ [REDACTED] publishes this periodical.

especially in the area of tuberculosis.” Accordingly, the petitioner has submitted evidence of his 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.

With respect to the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi), the petitioner has provided evidence that he authored several scholarly articles that appeared in, for example, the [REDACTED]

[REDACTED] Accordingly, the petitioner has submitted evidence of his authorship of scholarly articles in the field, in professional or major trade publications or other major media.

While the director also concluded that the petitioner meets the criterion at 8 C.F.R. § 204.5(h)(3)(iii), the record more strongly supports a conclusion that the petitioner meets the contributions of major significance criterion at 8 C.F.R. § 204.5(h)(3)(v). As supporting evidence of his contributions, the petitioner points to reference letters; the publication of his scholarly articles; citations to his articles; his participation in conferences, meetings and training; his involvement in consortium and working groups; his authorship of a manual; and his involvement in a television program named [REDACTED]

The petitioner’s evidence shows that he has made original contributions of major significance in the field. Specifically, the evidence in the record shows that the petitioner has initiated certain Public-Private Mix (PPM) Directly Observed Treatment, Short-Course (DOTS) models in India and a treatment program in East Timor that were later adopted on a national and international level. According to the petitioner’s curriculum vitae, when he was working for the [REDACTED], he “[l]ed the initial PPM [Public-Private Mix] pilot projects in India” and “[l]ed the efforts to strengthen the national laboratory network including laboratory quality control systems, piloting and scaling-up of interventions to manage HIV associated [tuberculosis] and multi drug-resistant [tuberculosis]” in East Timor. The record, including the Acknowledgements sections of two [REDACTED] reports and the PPM e-Update newsletter, supports these assertions.

The numerous reference letters in the record affirm that the work the petitioner has impacted the field at a level consistent with original contributions of major significance in the field. According to Dr. [REDACTED], Vice President of [REDACTED] the petitioner “initiated some of the first PPM DOTS (1999 to 2003) in the world ([REDACTED] models) when he was a [REDACTED] field officer in India These models were later scaled up in India and adapted in other countries.” Dr. [REDACTED] further states that “[a]s the [REDACTED] officer, the PPM model that [the petitioner] innovated in East Timor to launch a treatment program for multi-drug resistant [tuberculosis] patients in the country is documented as a global model.” According to Dr. [REDACTED] Associate Professor of Virology, Faculty of Health Sciences, [REDACTED] the petitioner “initiated the famous pilot projects namely [REDACTED] models (1999-2007) in India” and he led “the nationwide scale up of the public-private mix (PPM) interventions of [tuberculosis] control program” in India. According to [REDACTED], Director, Health and Medical Policy Program, School of Public Policy, [REDACTED] the “PPM projects that the [petitioner] has spearheaded in South India attracted global attention and were emulated in different parts of India.” Dr. [REDACTED] also states that the petitioner

“successfully led the national scale-up of PPM which was the first intervention at such a scale in the world by virtue of the size of its geographic extent and population coverage.”

According to Dr. [REDACTED] Director and Professor of Organization Development and Knowledge Management, School of Public Policy, [REDACTED] the petitioner “led in south India in engaging the private health sector in tuberculosis control program for the first time in India” and was later employed as the [REDACTED] “national professional officer to scale up the implementation of public-private mix (PPM) in [[tuberculosis] control at national level. [The petitioner] has worked in East Timor where . . . he developed innovative PPM models in managing drug-resistant [[tuberculosis] cases.” According to Dr. [REDACTED] a consultant internist, the petitioner “created the first few models of PPM in India which attracted the attention of the [[tuberculosis] control world” and “later led the national scale up of PPM in India as the [REDACTED] team leader.” According to Dr. [REDACTED] Tuberculosis/HIV Team Lead, Division of Global HIV/AIDS, U.S. Centers for Disease Control and Prevention, the petitioner had “a pioneering role in the expansion of [tuberculosis] control in India” and he used “his expertise to train and lead other staff in innovative approaches and techniques to accelerate high quality implementation to reach ever increasing number of suffering [tuberculosis] patients.” Dr. [REDACTED] also states that while working for [REDACTED] the petitioner “pioneer[ed] the public private mix (PPM) in India to improve [tuberculosis] control . . . [and that t]hanks in large part to [the petitioner’s] innovative and remarkable contributions, the India [tuberculosis] program now treats over a million [tuberculosis] patients every year.”

The evidence in the record supports the assertions in the letters. For example, the evidence shows that the petitioner’s written work has received attention from the field and garnered a high number of citations. According to Dr. [REDACTED], the petitioner’s “articles are heavily sighted [sic] because of the ground breaking findings these studies brought to the field of global [tuberculosis] control.” According to Dr. [REDACTED] the petitioner’s articles helped countries and organizations advocate for PPM approaches and seek funding for PPM, contributed to the development of policies in PPM, and informed policy decisions in India. As stated above, the [REDACTED] reports credit the petitioner with conducting reviews and follow-up of data as well as validating data. Finally, the program for the [REDACTED] provides that the petitioner “was the first doctor to produce and present a weekly health program in a television channel [REDACTED] and he did more than 400 episodes between 1993 and 2003 before he left [REDACTED]”

Accordingly, the petitioner has submitted sufficient evidence in the aggregate showing that he has made original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. The petitioner has met this criterion. See 8 C.F.R. § 204.5(h)(3)(v).

B. Final Merits Determination

As the petitioner has submitted the requisite initial evidence, we will conduct a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a level of expertise indicating that he is one of a small percentage who have risen to the very top of the field of endeavor, and (2) that he has sustained national or international acclaim and

that his achievements have been recognized in the field of expertise. Section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010).

Based on the evidence in the record and consistent with *Matter of Price*, 20 I&N Dec. 953 (Act. Assoc. Comm'r 1994), the petitioner has made the requisite showing. The petitioner has worked for a number of well-known international organizations, including the [REDACTED]. According to [REDACTED] of the Office of the [REDACTED] the petitioner "has served various international organizations including the [REDACTED] and has worked in different countries leading the implementation of public health programmes especially tuberculosis control programmes." Dr. [REDACTED] Secretariat of a [REDACTED] subgroup on PPM, states that the petitioner "is a highly regarded global [tuberculosis] and PPM expert who possesses important national and international experience in [tuberculosis] control." Dr. [REDACTED] states that the petitioner "is renowned internationally and is widely considered one of the top experts in the world in the field of global [tuberculosis] control and the development of public-private mix systems (PPM DOTS)." The petitioner's past and current employers have consistently praised him on his capability in and knowledge of tuberculosis control, especially in the area of PPM.

Other scientists in the field have similarly confirmed the petitioner's status in the field, particularly in the area of PPM. For example, [REDACTED] Ph.D., Senior Tuberculosis Technical Advisor, [REDACTED], states that the petitioner is "a very active and prominent global expert in the area of [tuberculosis] in general, and PPM DOTS in particular." According to [REDACTED] M.D., Founding Director of [REDACTED] and Professor of Medicine at the [REDACTED] San Francisco, the petitioner is "a global tuberculosis control expert" who has worked in "tuberculosis control programs at the local, national and global levels" and worked at "the [REDACTED]." According to [REDACTED] Senior Advisor, Office of the President's Special Envoy at [REDACTED] the petitioner is "a renowned and globally recognized [tuberculosis] expert," he "was a senior staff member of the [REDACTED]" and he "is a [REDACTED]-designated global [tuberculosis] expert and a trainer who has contributed immensely to the development of policies on global [tuberculosis] control In his current position as the [Tuberculosis] Technical Director of the HIV/[Tuberculosis] Global Program of [REDACTED] . . . he continues to be [a] key global leader in the fight against [tuberculosis]." [REDACTED], Director of [REDACTED], and [REDACTED] Scientific Director at [REDACTED] have provided similar information relating to the petitioner's past and current positions and his accomplishments in these positions.

The petitioner has had extensive experience as a reviewer and an editor for a number of professional publications, including [REDACTED]. Dr. [REDACTED], the editor of the [REDACTED] medical health magazine [REDACTED] states that "from 1999 to 2004 . . . [the petitioner,] edited 72 monthly issues" of the magazine and "judged and g[ave] approval for publishing more than two thousand (2000) articles after considering a total of at least 15,000 articles written by various writers." A September 2013 printout from the magazine's website indicates that the petitioner remains on its editorial board. From 2004-05, the petitioner served on the advisory board of

_____ and has continued to advise the _____ in its selection of appropriate articles to be published, especially in the area of tuberculosis control.

The petitioner has made original contributions of major significance in the field. The numerous reference letters in the record affirm that the petitioner has initiated certain PPM Directly Observed Treatment Short-course (DOTS) models in India and a treatment program in East Timor that were later adapted on a national and international level, and that the petitioner's work has had a significant impact in the field as a whole. The petitioner has been personally solicited and invited to be a featured lecturer, speaker or presenter at multiple national and international trainings, meetings and conferences, including delivering a presentation at an _____ conference as the _____, and presenting his work at the _____ Meeting in Thailand, the _____

The petitioner has authored a number of scholarly articles that have received attention from and have impacted the field consistent with original contributions of major significance. Dr. _____ states that the petitioner's "articles are heavily sighted [sic] because of the ground breaking findings these studies brought to the field of global [tuberculosis] control." Moreover, the petitioner has submitted evidence that he hosted a television program called _____. According to a September 2013 letter from _____ Senior Coordinating Editor – Programs, _____, the petitioner "has produced and presented more than 400 weekly episodes of a very popular weekly health show _____ channel [a Malayalam television channel] over a period of more than 10 years from 1993 to 2003." According to Dr. _____ who had watched _____ "played a major role in creating public awareness about tuberculosis and, therefore, greatly benefited the health and welfare" in India.

Finally, the petitioner is the Tuberculosis Technical and Strategic Director in _____ offices in Washington, D.C. According to Dr. _____ is "an international organization funded through the _____ to improve and expand public health globally." According to Dr. _____ is "an organization that is heavily involved in the implementing _____'s tuberculosis program." As the petitioner meets three criteria, we need not determine whether the petitioner meets the leading or critical role criterion at 8 C.F.R. § 24.5(h)(3)(viii). The petitioner's significant role with the _____, however, is at least consistent with a finding that he enjoys national or international acclaim.

Considered in the aggregate, the evidence in the record shows that the petitioner is one of the small percentage who are at the very top of the field and demonstrates his sustained national or international acclaim. See 8 C.F.R. §§ 204.5(h) (2), (3).

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of his or her field of endeavor.

The petitioner has submitted evidence qualifying under at least three of the ten evidentiary criteria and has established 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" and "sustained national or international acclaim." The petitioner's achievements have been recognized in his field of expertise. The petitioner has established that he seeks to continue working in the same field in the United States. The petitioner has established that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established eligibility for the benefit sought under section 203 of the Act.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act; 8 U.S.C. § 1361. Here, that burden has been met.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.