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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

[Redacted]

B6

DATE: **JUL 06 2012** Office: NEBRASKA SERVICE CENTER

FILE: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as an Other, Unskilled Worker Pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is an individual who seeks to employ the beneficiary permanently in the United States as a housekeeper. As required by statute, the Form I-140, Immigrant Petition for Alien Worker, is accompanied by a Form ETA 750, Parts A & B, Application for Alien Employment Certification, approved by the United States Department of Labor (USDOL). The director determined the petitioner had not established that the beneficiary had the required three months of experience in the job offered as a housekeeper.

Section 203(b)(3)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(iii), provides for the granting of preference classification to other qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

In his decision dated April 18, 2008, the director noted that a discrepancy was found regarding the beneficiary's experience. [REDACTED] Commack, New York, in a letter dated [REDACTED] [REDACTED] stated that the beneficiary had been employed by her as a housekeeper from [REDACTED] through [REDACTED]. However, [REDACTED] Jamaica, New York, in a letter dated [REDACTED] stated that the beneficiary had been employed by U.S.A. Pandits' Parishad, Inc. "to teach and sing Bhajans in our Kirtan group for religious services held at our church and other smaller mandirs." In his Request for Evidence (RFE) dated January 23, 2008, the director required the petitioner provide evidence to establish the beneficiary had obtained the required experience as specified in the letter from [REDACTED]. The director requested that the petitioner submit photocopies of the beneficiary's tax documents, W-2's, contracts, pay statements, or any other documents to verify the beneficiary was actually employed as a housekeeper. The petitioner merely resubmitted a copy of the August 8, 2003 letter from [REDACTED].

On appeal, counsel states:

The basis of the instant appeal is that the decision of the Service dated April 18, 2008 to deny the visa petition was arbitrary, capricious and an abuse of discretion and is clearly erroneous as a matter of fact and law.

Counsel further states in a brief that the petitioner had obviously checked an incorrect box on Form I-140 and erroneously requested that the beneficiary be classified as a skilled worker in error. Counsel indicates that the petitioner should have been allowed to correct that mistake. However, this argument has no merit because the record shows that the petitioner checked the correct block on the Form I-140 and correctly requested the beneficiary be classified as an unskilled worker. Counsel did not address the reason why the petition was denied. The Service Center treated the petition as one for an unskilled worker, which was the classification requested by the petitioner.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel here has not specifically addressed the reason stated for denial and has not provided any additional evidence. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.