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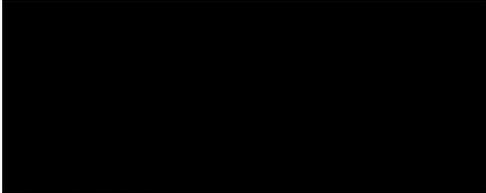
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



WAC 01 253 58359

Office: CALIFORNIA SERVICE CENTER

Date: APR 05 2005

IN RE:

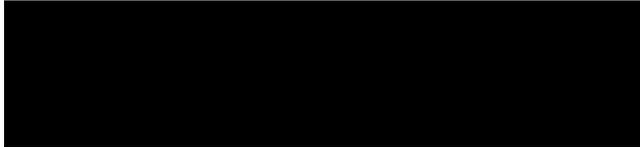
Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:



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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be granted, the previous decision of the AAO will be affirmed and the petition will be denied.

The petitioner is a church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), in order to classify her as a religious translator.

The director denied the petition on October 21, 2002, after determining that the petitioner failed to establish that the beneficiary had the requisite two years of continuous work experience as a religious translator immediately preceding the filing date of the petition.

The petitioner, through counsel, filed a timely appeal. In support of the appeal, counsel submitted copies of the receipts for pay and copies of what the petitioner purported to be the "Indian equivalent of W-2." The AAO dismissed the appeal on September 30, 2003, finding that the petitioner failed to establish the beneficiary's continuous employment for the requisite two-year period prior to the filing of the petition.

Concurrent with the motion to reopen filed on October 31, 2003, counsel submits a faxed copy of a document entitled, "Certificate" from an accountant, presumably in India. The document, signed by Rajesh K. Chougule, a partner at an accountant firm, states:

We do hereby certify that the annual income of [the beneficiary] from [s]alary after permissible deductions for the last three years is as follows

Fin Year	Asst Year	Gross Total Salary	Permissible Deductions	Net Taxable Income	Tax	Remarks
2000-01	2001-02	74400	32800	41600	Nil	Below taxable limit
2001-02	2002-03	81600	35200	46400	Nil	Below taxable limit
2002-03	2003-04	85200	36400	48800	Nil	Below taxable limit

We are not persuaded by the single piece of evidence submitted on motion. First, the petitioner provides no explanation as to how [redacted] would be aware of the beneficiary's pay for these years in order to provide such certification regarding her salary. Second, the letter contradicts the petitioner's previous statements in the record indicating that the beneficiary did not work after entering the United States.<sup>1</sup> In fact, in the beneficiary's signed letter, submitted in response to the director's request for evidence, the beneficiary stated that her work for Teen Action International "was not voluntary work [and that she] worked and received wages from Jan[.] 1, 1997 till December 31, 2000." The beneficiary further stated that she has "not worked since [she] entered USA as friends, relatives and church organizations from abroad have taken care of me very well."

<sup>1</sup> The petitioner entered the U.S. as a B-2 nonimmigrant visitor on December 1, 2000.

The information contained in the record prior to the filing of the motion, clearly indicates that the beneficiary did not work after entering the United States in December 2000 and therefore, contradicts the evidence submitted on motion. If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

**ORDER:** The AAO decision of September 30, 2003 is affirmed. The petition is denied.