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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

PUBLIC COPY

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

FIL[redacted] Office: Washington D.C. Date: APR 08 2003

IN RE: Applicant: [redacted]

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957

ON BEHALF OF APPLICANT:

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Washington, D.C. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Peru who is seeking to adjust her status to that of a lawful permanent resident under section 13 of the Immigration and Nationality Act (the Act) of 1957, Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, as the dependent of an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(i) of the Act.

The district director denied the application for adjustment of status after determining that the applicant's father was maintaining legal status at the time he submitted his application for adjustment of status.

On appeal, counsel contends that the district director erred in his decision because the applicant's husband had resigned from his position at the Peruvian embassy as of August 1, 1992. He further asserts that the applicant was not provided with the evidence the director used in making his decision, nor was the applicant asked to provide evidence to corroborate the end of his employment. He also states that there is no evidence that the director held a verbatim record of the interview or that the verbatim record was transcribed by the director.

The Administrative Appeals Office reviewed all the materials contained in the applicant's husband's record and determined that he was, in fact, still in valid status at the time he filed his application for adjustment of status under section 13 of the Act of September 11, 1957.

Matter of Aiyer, 18 I&N Dec. 98 (Reg. Comm. 1981), held that since the dependent of a principal alien derives benefits from the principal alien, an applicant for adjustment of status under section 13 of the Act of September 11, 1957 is ineligible for such benefits if he/she is the dependent of a principal alien ineligible for such benefits. The applicant is, therefore, ineligible for the benefits of section 13 of the Act since the principal alien has been found ineligible for these benefits. The appeal is, therefore, dismissed.

ORDER: The appeal is dismissed.