



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF M-A-

DATE: FEB. 8, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a financial journalist, seeks classification as an individual “of extraordinary ability” in the field of journalism. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The classification the Petitioner seeks makes visas available to foreign nationals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. The Director determined that the Petitioner did not satisfy the initial evidentiary requirements set forth at 8 C.F.R. § 204.5(h)(3), which requires a one-time achievement or satisfaction of at least three of the ten regulatory criteria.

On appeal, the Petitioner asserts that he meets the criteria listed under 8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), (v), (viii) and (ix). For the reasons discussed below, the Petitioner has established his eligibility for the classification sought. Specifically, he meets at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also shown that he is one of the small percentage who is at the very top in the field of endeavor, and has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3).

I. 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

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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.

The term "extraordinary ability" refers only to those individuals in that small percentage who has 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) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this documentation, then he must provide sufficient qualifying evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011) (affirming U.S. Citizenship and Immigration Services' (USCIS) proper application of *Kazarian*), *aff'd*, 683 F.3d. 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013) (finding that USCIS appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that USCIS examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true").

II. ANALYSIS

A. Evidentiary Criteria

The record confirms that the Petitioner meets the following three criteria.

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.

The Director found that the Petitioner met this criterion. The record supports this conclusion. In a May 5, 2014, letter, [REDACTED] Managing Director of [REDACTED] stated that the Petitioner has served as the magazine's editor-in-chief since July 2005. In this capacity, the Petitioner "reviews all the news, articles, comments etc. received from the different corners of the nation before publication and gives his verdict and final touch to the reports." He also "evaluates the work of all the employees [at the magazine] in the editing and news section and holds the responsibility of giving

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final decisions regarding whether or not to publish the articles provided by the experts and professionals in the financial sector.” ██████████ General Secretary, ██████████ indicated that the Petitioner was a member of the organization’s Prize Section Committee and “evaluated 102 reports available from different parts of the country” and selected prize winners. In light of the above, the Petitioner has documented 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. He therefore satisfies this criterion.

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

The Petitioner has submitted sufficient evidence showing that he meets this criterion. ██████████ also known as ██████████ indicated in an August 31, 2013, letter that the organization has invited the Petitioner repeatedly to be “the felicitor [*sic*] in the trainings choosing him as the best among three hundred members of ██████████ throughout Nepal.” A number of news articles reported on the Petitioner’s ██████████ training sessions. According to an undated letter from ██████████ also appointed the Petitioner as its coordinator “to publish a Journal ██████████” noting that in his coordinator role, the Petitioner “will lead the journal by including the articles, critiques and experiences of different experts and renowned personalities of commercial sector.” In a March 9, 2015, letter, ██████████ confirmed that ██████████ appointed the Petitioner as a coordinator in July 2013, prior to the filing of the petition. ██████████ statements demonstrate that the Petitioner has performed a leading or critical role for ██████████

In addition, the Petitioner has demonstrated that ██████████ is an organization that has a distinguished reputation. ██████████ stated that ██████████ “includes all the economic journalists working for different newspapers, radios and TVs.” ██████████ has held trainings for journalists in Nepal, such as a two-day training that it jointly organized with the ██████████ in Nepal. An online article provided a photograph of the Petitioner at the two-day training. The level of the Petitioner’s involvement with ██████████ constitutes proof that he has performed in a leading or critical role for an organization or establishment that has a distinguished reputation. He therefore satisfies this criterion.

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

The record includes sufficient documentation showing that the Petitioner meets this criterion. In an April 2014 letter, ██████████ Executive Chairman, ██████████ affirmed that the Petitioner earned 75,000 Nepalese Rupees (Rs.) a month as the editor of ██████████ The letter noted, “[a]ccording to the [W]orking Journalists Act the salary of the journalists is only Rs. 14,000 and the salary of the editor of the papers is Rs. 45,000 per month.” ██████████ provided a “pay scale,” revealing salaries of editors for four other publications: ██████████ confirming that other editors earned substantially less than the

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Petitioner. In light of the above, the Petitioner has filed evidence demonstrating that he has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. He therefore satisfies this criterion.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination that considers the entire record in the context of whether or not the Beneficiary has demonstrated: (1) that he enjoys 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*, 596 F.3d at 1119-20. Based on the filings 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 been a financial journalist for many years, and has served as the editor-in-chief for [REDACTED] which according to [REDACTED] is the “first specialized Nepali magazine that deals with the financial sector” and that “publish[es] investigation based materials related to the financial sector and also includes research articles and reports on financial strategies and polices.” [REDACTED] further indicated that the publication has 25,000 subscribers and a “total circulation per month is about two lakh copies,” or 200,000 copies.¹ As the editor-in-chief, the Petitioner has had extensive experience reviewing, evaluating and judging the written work of other journalists and financial experts, and has made the final decision on whether to publish submitted articles.

In addition, the Petitioner has performed important roles for well-known organizations in Nepal. For example, he serves as the chairman for [REDACTED] a nonprofit organization that has cohosted workshops and trainings with the [REDACTED] and [REDACTED]. The Petitioner has been intimately involved with training journalists in Nepal, including offering training programs that [REDACTED] and the [REDACTED] had jointly sponsored. Media outlets, such as [REDACTED] and [REDACTED] have reported on the Petitioner’s training programs. At [REDACTED] request, the Petitioner shared suggestions relating to the national budget with the Nepal’s Minister of Finance. [REDACTED] Former Chairperson of [REDACTED] noted that [REDACTED] designed the Petitioner to “develop its vision paper and take [a] lead role to provide inputs to the government on national budget.” In a July 2013 letter, [REDACTED] confirmed:

[The Finance Minister] has expressed his sincere thanks and appreciation to [the Petitioner] though [sic] [REDACTED] for [his] valuable suggestions to empower private sector to run government owned commercial banks and to manage expenditure systems through commercial system, in the process of budget drafting. The office of

¹ See <http://www.merriam-webster.com/dictionary/lakh>, accessed on February 2, 2016, and incorporated into the record of proceeding.

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the Finance Minister has stated that [the Petitioner's] valuable suggestions will play vital role in the process of budget drafting.

Moreover, the Petitioner has received a number of significant awards for his work in the field. [REDACTED] Chairperson of the [REDACTED] indicated in a March 30, 2014, letter that the Petitioner received the [REDACTED] because of his "incomparable contributions in [the] commercial sector of Nepal as well as for his efforts to publish dozens of reports about [the] commercial sector" through [REDACTED]. The award certificate, dated March 12, 2014, similarly provided that the Petitioner received the award "for [his] incomparable contribution representing entire journalism [*sic*] of Nepal" and because of his authorship of [REDACTED] which "has become a significant document throughout the history of [the] commercial sector."

The award ceremony for the [REDACTED] received media coverage in Nepal. In a March 31, 2015, letter, [REDACTED] Senior Executive Editor, [REDACTED] stated that the agency covered the Petitioner's receipt of the award, which was posted on [REDACTED]. In his 2014 letter, [REDACTED] noted that these websites are "online news portals [that] have higher number of audiences." The media coverage noted that a formal Minister of Nepal presented the Petitioner with the award during the ceremony.

Additionally, the Petitioner has received the [REDACTED] [REDACTED] stated in his March 16, 2015, letter that the Petitioner received the award and cash prize for his work as the editor of the [REDACTED] and for his "incredible role in presentation of the subject contents, in-depth analysis of financial regulations, and other such matters." [REDACTED] confirmed in his April 25, 2013, letter that the Petitioner received the award "on the merit of his excellent journalistic ability and [his] proficiency in subject matter." [REDACTED] Secretary, [REDACTED] verified that the Petitioner's award was a "national-level" award.

Furthermore, the Petitioner has made important contributions in the field. The Petitioner authored and published [REDACTED] a book that many in the field consider an encyclopedia of Nepalese financial sector. The record shows that others in the field have relied on and referenced the book in their own writing or studies. [REDACTED] Head of Department, Central Department of Management, [REDACTED] indicated that the Petitioner's book "is the only book in Nepal which covers facts and figures of [all] Bank and Financial Institutions (BFIs) of Nepal in a single account." He recommended the book to students as a reference and affirmed that "[m]ore than 250 students have already cited the book in their study." [REDACTED] a Ph.D. candidate at the [REDACTED] stated that the Petitioner's book is "the first book of its kind for Nepal and that it is "helpful . . . for those wanting to understand [Nepal's] complicated financial sector."

[REDACTED] the Petitioner's book publisher, provided that the Petitioner's book "is commercially the most successful book among the books published about the financial

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sector of Nepal in 2013” and that it “has outsold all other contemporary books.” In a separate statement, [REDACTED] noted that the publisher sold 900 copies of the Petitioner book, while three other books in the same field sold between 350 and 400 copies. [REDACTED] Editor of [REDACTED] indicated that the publisher of [REDACTED] acknowledged the Petitioner’s “deep research and serious analysis of the financial sector” and “signed a contract with him as an expert financial analyst.”

The record in the aggregate, including the Petitioner’s work and leading role in [REDACTED] [REDACTED] his receipt of awards covered by the media for contributions he made in the field, such as the publication of his book [REDACTED] and his high salary confirm that he enjoys a level of expertise consistent with a finding that he is one of a small percentage who have risen to the very top of the field of endeavor, that he has sustained national or international acclaim and that his achievements have been recognized in the field of expertise. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Accordingly, the Petitioner has established by a preponderance of the evidence that he is eligible for the exclusive classification sought.

III. CONCLUSION

The Petitioner has submitted qualifying evidence under at least three of the ten evidentiary criteria and has documented that he has a “level of expertise indicating that [he] is one of that small percentage who have risen to the very top of the field of endeavor” and “sustained national or international acclaim.” His achievements have been recognized in his field of expertise. He has also shown that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the Petitioner has demonstrated his eligibility for the benefit sought under section 203 of the Act.

In visa petition proceedings, it is the Petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of M-A-*, ID# 15319 (AAO Feb. 8, 2016)