

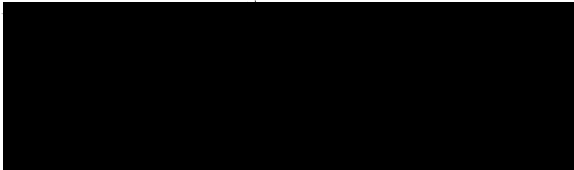
Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

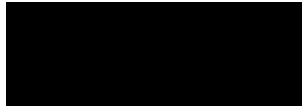
PUBLIC COPY



Bz

FILE: WAC 03 101 53422 Office: CALIFORNIA SERVICE CENTER Date: **APR 05 2005**

IN RE: Petitioner:
Beneficiary:



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:

SELF-REPRESENTED

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.

Maui Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in business. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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

As used in this section, the term "extraordinary ability" means 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. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that she has earned sustained national or international acclaim at the very top level.

This petition, filed on February 10, 2003, seeks to classify the petitioner as an alien with extraordinary ability as a banking industry manager. The petitioner states that the two main highlights of her career were managing "administrative and training activities for a major national bank" and managing "personnel and human resources for an international bank."

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award).

On appeal, the petitioner argues that her admission as a "Fellow" to the Australasian Institute of Banking and Finance (AIBF) constitutes a major, internationally recognized award. The regulation permitting eligibility

based on a single award must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. Examples of one-time awards which enjoy truly international recognition include the Nobel Prize, the Academy Award, and (most relevant for athletics) the Olympic Gold Medal. These prizes are "household names," recognized immediately even among the general public as being the highest possible honors in their respective fields. The petitioner's fellowship from the AIBF will be addressed below as a lesser nationally or internationally recognized prize or award.

Barring the alien's receipt of a major, internationally recognized award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner claims eligibility under the following criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner submitted a certificate from the AIBF, dated February 28, 2001, stating: "This is to certify that [the petitioner] having satisfied the requirements of the Institute was admitted as a Fellow."

On appeal, the petitioner argues that this certificate constitutes a nationally or internationally recognized prize or award. In support of her appeal, the petitioner submits a letter from Sue Gillies, Careers and Education Advisor, AIBF. Her letter states:

Dear [the petitioner],

APPLICATION FOR ADVANCEMENT TO FELLOW – FAIBF

Thank you for your recent application for the above award.

I am pleased to advise that you have fulfilled all the necessary requirements and have now been raised to the status of Fellow of the Australasian Institute of Banking and Finance.

* * *

Please be advised that the Fellow member fee rate will commence and be payable from the beginning of the financial year following the date shown on your certificate.

According to the above letter, the petitioner's certificate was awarded not by outside nomination, demonstrating the field's regard for her ability, but upon her application for "Fellow" membership status.

The petitioner also submits a letter from Alan Curry, Membership and Information Manager, AIBF. His letter states:

The fellow award is the highest professional award that AIBF offers. It is recognition by your peers of both academic and work related achievement. To be eligible a person must have reached Senior Management level in a financial institution and have completed more than 15 years work experience.

The AIBF has approximately 11,000 members from both Australia & New Zealand & overseas. Fellowship makes up 25% of our membership.

Thus, the AIBF has granted "Fellow" membership status to approximately 2,750 of its paying members.

The petitioner has not adequately shown the level of national or international acclaim associated with her AIBF fellowship status. Recognition can come from an international organization and still not be highly significant, particularly when there are numerous other recipients, as in the present case. The record contains no evidence of publicity surrounding the petitioner's admission as a fellow or evidence showing that her award enjoys significant recognition beyond members of the presenting institution. Furthermore, we do not find that an AIBF fellowship (open to professionals who have reached the "senior management level in a financial institution" and who have "15 years" of work experience) represents an award for "excellence" in the banking industry or that such a fellowship elevates the petitioner above almost all others in her industry at the national or international level.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, a fixed minimum of education or experience, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, and recommendations do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local level. Therefore, membership in an association that evaluates its membership applications at the local chapter level would not qualify. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

On appeal, the petitioner asserts that her membership status as an AIBF fellow also satisfies this criterion. We do not find that holding a senior management level position in a financial institution and having 15 years of work experience are requirements that are indicative of "outstanding achievement" in one's field.

The petitioner also submitted a certificate from the Indian Institute of Bankers, dated January 17, 1980, indicating that she "duly passed the Associate Examination of the Institute" and became a "Certified Associate of the Institute."

The petitioner's resume indicates that she is a member of the Australian Human Resources Institute, but the record contains no evidence to support this assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

There is no evidence to establish that the petitioner's membership in the above organizations required "outstanding achievements" in banking management or that her admission to membership was evaluated by industry experts at the national or international level.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be printed in professional or major trade publications or other *major* media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. The record contains no evidence showing that the petitioner has been the primary subject of published materials written by others about her work.

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.

In an occupation where "judging" the work of others is an inherent duty of the occupation, such as a supervisor, instructor, teacher, professor or editor, simply performing one's job related duties demonstrates competency, and is not evidence of national or international acclaim.¹ Instead, the petitioner must demonstrate that her sustained national or international acclaim resulted in her selection to serve as a judge of the work of others. Similarly, the competition, contest, or evaluation must be on a national or international level and involve accomplished professionals in the petitioner's field.

On appeal, the petitioner asserts that she evaluated "a fairly large number of applicants for various positions" for the Central Bank of India in Bombay and the Banque National de Paris (BNP) in Bombay. Such duties are inherent to a management position and do not elevate the petitioner above almost others in her industry. The record contains no evidence showing that the petitioner has ever evaluated banking professionals at the national or international level. Evaluating applicants for employment in local banking operations does not meet this standard. Finally, we note that, according to her resume, the petitioner has not served in a managerial capacity since 1991. The statute and regulations, however, require the petitioner's acclaim to be *sustained*.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner asserts that she authored regulations for the BNP, but she provides no evidence to support her claim. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California* at 190. Regardless of the petitioner's failure to support her assertion with evidence, we do not find that authoring internal regulations is tantamount to "authorship of scholarly articles in the field, in professional or major trade

¹ This is true with all duties inherent to an occupation. For example, publication is inherent to scientific researchers. Thus, the mere publication of scholarly articles cannot demonstrate national acclaim. The petitioner must demonstrate that the articles have garnered national attention, for example, by being widely cited.

publications or other major media.” The petitioner does not explain how she was able to achieve sustained national acclaim if the internal material that she authored was not disclosed outside of her employer.

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

The record reflects that the petitioner held the positions of “Manager Personnel in Charge of Human Resources and Training” and “Manager in Charge of Administration” for BNP in Bombay and “Personnel Officer Specialist” at the Bombay Metropolitan Zonal Office for the Central Bank of India. The record does not adequately show that, during the petitioner’s tenure in these positions, the branches run by the petitioner had a distinguished reputation when compared to other banking institutions. For example, the record contains no published materials reflecting that the petitioner’s efforts resulted in her institutions significantly outperforming their competitors in the banking industry. Nor does the record adequately demonstrate that the importance of petitioner’s role as a personnel administrator was any more significant than that of similar bank executive positions that exist throughout her industry. This criterion, like all of the criteria, is intended to separate the petitioner from almost all others in her field. We find that the evidence presented does not adequately establish that the petitioner has performed in a leading or critical role for a distinguished establishment, or that her involvement has earned her sustained national or international acclaim.

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

The petitioner submitted a copy of a single BNP pay statement from 1991 and documentation pertaining to a housing allowance from 1989. There is no indication that this remuneration was “significantly high” in relation to that of other banking industry managers. We further note that the statute and regulations require the petitioner’s acclaim to be *sustained*. The record contains no evidence showing that the petitioner has earned significantly high remuneration subsequent to 1991. We find that the evidence presented by the petitioner does not support the conclusion that she is among the highest paid executives in her industry.

Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

On appeal, the petitioner states: “I would like to submit a copy of the CD ‘One Heart’ which showcases my musical talent.” The petitioner submits the compact disc cover, which acknowledges the petitioner as one of approximately two hundred contributors to the musical compilation. Aside from the fact that the petitioner seeks classification as a banking manager rather than a musical performer, the regulation calls for commercial success in the form of “sales” or “receipts.” Simply documenting the petitioner’s participation in musical compilation cannot meet the plain wording of the regulation. The record contains no evidence of documented “sales” to show that that the petitioner’s music is nationally or internationally acclaimed.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien’s entry into the United States will substantially benefit prospectively the United States. The petitioner in this case has failed to demonstrate that she meets at least three

of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished herself as a banking industry manager to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner's achievements set her significantly above almost all others in her field at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.