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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

A 3

[REDACTED]

FILE:

[REDACTED]

Office: WASHINGTON DISTRICT

Date:

FEB 23 2009

IN RE:

[REDACTED]

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:

[REDACTED]

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 you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Washington, D.C. and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected and the matter remanded to treat the appeal as a motion.

The applicant is a native and citizen of Bangladesh who is seeking to adjust her status to that of lawful permanent resident under section 13 of the Act of 1957 ("Section 13"), Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, 8 U.S.C. § 1255b, as the immediate family member of an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(ii).

The field office director denied the application for adjustment of status of the applicant's father after determining that the applicant's father had failed to demonstrate that compelling reasons prevent his return to Bangladesh. The field office director denied the applicant's adjustment application on the basis of her father's ineligibility for benefits under Section 13. Counsel has appealed both decisions.

The AAO rejected the applicant's father's appeal as untimely filed, but found that the applicant's father had submitted documentary evidence sufficient to satisfy the requirements of a motion to reopen and remanded the matter to the director to treat as a motion. As the applicant's eligibility for adjustment under Section 13 derives from the eligibility of her father, this application is also remanded for the appeal to be treated as a motion.

ORDER: The application is remanded to the director for entry of a new decision.