

MATTER OF LIEU

In Section 245 Proceedings

A-20622233

Decided by Acting District Director April 6, 1976

- (1) Applicant has been continuously employed by the United States Embassy in Saigon, Vietnam for 19 years, until April 30, 1975, when the Embassy was closed upon the capitulation of the Government of the Republic of Vietnam. Thus her employment abroad was terminated involuntarily by both applicant and the United States Government.
- (2) Application for status as a permanent resident under section 245 is granted in the case of an applicant otherwise eligible where the Coordinator of Ombudsmen, Former Employees of Indochina Missions recommended applicant be accorded special immigrant status under section 101(a)(27)(E) [now section 101(a)(27)(D)] on the basis of her honorable employment by an agency of the United States Government abroad for a period exceeding 15 years, and such recommendation was concurred in by the Chief of the Advisory Opinions Branch of the Visa Office of the Department of the State exercising the delegated authority of the Secretary of State.

ON BEHALF OF RESPONDENT: Pro se

The applicant is a forty-two year old, unmarried female who was born in Saigon, Vietnam. She was last admitted to the United States as a visitor for pleasure on April 22, 1975 with permission to remain in the United States until October 31, 1975. She maintained status until May 27, 1975 at which time she requested processing as a refugee and for permission to accept employment in the United States. Her status as a visitor was terminated and she was authorized to accept employment. Although she was initially accorded until November 26, 1975 to effect her departure from the United States, she was subsequently permitted to remain in the United States indefinitely as a refugee pursuant to the written directive of the Deputy Commissioner, United States Immigration and Naturalization Service dated June 3, 1975.

On July 8, 1975, the applicant filed an application with the District Office of the Service in Washington, D. C. for the adjustment of her status to that of a lawful permanent resident of the United States as a special immigrant as defined by Section 101(a)(27)(E) of the Immigration and Nationality Act, as amended, on the basis of her claim that she had been honorably employed by an agency of the United States Government for a

Interim Decision #2523

period in excess of 15 years abroad. In support of her application, she furnished a statement signed by the Supervisory Personnel Officer, United States Embassy, Saigon, Vietnam certifying that she was employed at the Embassy in various positions from July 25, 1956 until April 1975; that her service was outstanding; and that in 1972 she was awarded a step increase in salary for meritorious service. The applicant also furnished a statement from the Chief, Advisory Opinions Division, Bureau of Security and Consular Affairs, Department of State, Washington D.C. dated January 20, 1976. That statement verifies that the coordinator of Ombudsman, Former Employees of Indochina Mission, United States Department of State recommended that the applicant be granted special immigrant status. The Chief Advisory Opinions Branch related further that the visa office pursuant to the delegated authority of the Secretary of State concurred in the recommendation of the Coordinator and determined that in view of the applicant's devoted service it was in the national interest that the applicant be accorded special immigrant status.

Section 101(a)(27)(E) of the Act provides that special immigrant status is accorded to:

an immigrant who is an employee, or an honorably retired former employee of the United States Government abroad, and who has performed faithful service for a total of 15 years, or more, and his accompanying spouse and children: Provided, That the Principal Officer of a Foreign Service establishment, in his discretion, shall have recommended and finds that it is in the national interest to grant such status.

The record establishes that the applicant was continuously employed by the United States Embassy in Saigon, Vietnam for 19 years and that her service was deemed outstanding by the Senior Personnel Officer at the Embassy. She was employed by the Embassy at the time of her departure from Vietnam. She departed the Republic of Vietnam and entered the United States on April 22, 1975. Subsequent to her departure, the United States Embassy was closed and on April 30, 1975 the Government of the Republic of Vietnam capitulated. The applicant's employment with the Embassy was, thereby, involuntarily terminated. Her honorable termination of employment is attested to by the circumstances of the Embassy's closure. The Department of State has temporarily reemployed her in the United States since May 1975. In the absence of a recommendation from the Chief Officer of the United States Embassy in Saigon which no longer exists, the recommendation of the coordinator of Ombudsman, Former Employees of Indochina Missions is determined to constitute the required recommendation of Chief Officer of the United States Agency abroad. The Department of State has concurred in the recommendation of the Coordinator that the applicant be granted special immigrant status.

Interim Decision #2523

The record also establishes that the applicant was inspected and admitted on arrival. She has no criminal record and there is no evidence that she is other than a person of good moral character. She has been examined by a Civil Surgeon designated by the United States Public Health Service and found to be medically admissible. Eligibility for the benefits of section 245 of the Act has been established.

ORDER: It is ordered that the application for status as a permanent resident under Section 245 of the Immigration and Nationality Act be granted.