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Wednesday, Jan 07, 2004

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Immigration

Posted on Wed, Jan. 07, 2004

Foreign workers sue to force status rulings

By Jessie Mangaliman
Mercury News

A group of high-tech foreign workers from across the country has filed a class-action lawsuit against the Department of Homeland Security, the federal agency that oversees the country's immigration system.

The lawsuit was filed last month in U.S. District Court in Washington, D.C., by nine immigrants and ImmigrationPortal.com, an online immigration discussion group, saying many foreign workers have been waiting years for a government decision on their green card applications to stay permanently in the United States.

The suit names as defendants, among others, Homeland Security Secretary Tom Ridge, the chiefs of three immigration-related agencies under his supervision, the directors of immigration service centers and U.S. Attorney General John Ashcroft.

No one knows how many such applications are pending with regional service centers under the U.S. Citizenship and Immigration Services. The California Service Center in Laguna Niguel is named in the lawsuit.

A Virginia lawyer representing the workers said he decided to file the lawsuit as a class action because he believes that thousands of immigrants face the same predicament: Their personal and work lives are in limbo while waiting for a government decision.

Many of the workers are on H-1B and L-1B visas, special visas that can lead to permanent residency or green cards and eventually to citizenship. Workers on these visas can apply for what is called an Employment Based Adjustment of Status or AOS. In effect, they apply to "adjust" or change their status from temporary worker to permanent resident after a rigorous review by the federal government.

"We have a right to a timely adjudication," said Rajiv S. Khanna, the attorney from Arlington, Va., who also founded ImmigrationPortal.com. "You can't keep people waiting forever. You've got to decide these cases."

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Charles Miller, a spokesman for the Department of Justice, which represents DHS and Ashcroft, said the case is under review and declined to comment further.

Kazuomi Kashii, 45, a software engineer from San Jose who is a plaintiff in the lawsuit, came from Japan to the United States in March 2001. He was hired as a project manager with a technology firm in Menlo Park.

In 2002, about a year after he arrived with his wife and two college-age children, Kashii applied to make his immigration status permanent. His application is still pending.

``I'm afraid that if I were to die in a car accident or something, the legal status of my children in the U.S. would end, too," Kashii said.

Khanna argues that many workers like Kashii, who are likely to have their green card applications approved, are waiting an inordinate amount of time. Congress has mandated service centers to process these types of claims within six months, Khanna said.

San Jose software engineer Rajah Kalipatnapu said he's worried that his H-1B will expire before his application is processed.

``Everything is temporary. I'm living a temporary life," said Kalipatnapu, 33, whose H-1B work visa expires in June.

Under current government rules, workers like Kalipatnapu, whose visas expire while their application is pending, may apply to extend their temporary work permits.

But the problem, Khanna said, is that they are required to renew the permit every year.

This is more than a minor inconvenience, he said.

``Because you're not a green card holder, you can't do anything with your life. Banks won't give you a loan. You can't buy a house. You can't start a family," Khanna said. ``It takes away from your life, your career, your existence."

Send your questions to immigration@mercurynews.com or fax us at (408) 288-8060. You can also write to us at: Immigrant Experience, San Jose Mercury News, Newsroom, 750 Ridder Park Drive, San Jose, Calif. 95190. Please include your name, daytime phone number and city of residence.



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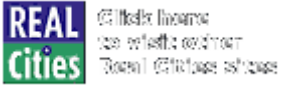
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