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Immigration Mayhem – It’s not just at the southern border. It is here too.

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August 8, 2019

By all accounts, Riya (not her real name) was a star employee at her company, a major Kentucky-based corporation. Yet she was let go on short notice, despite the protests of her managers and her colleagues, depriving her company of her invaluable expertise.

Having immigrated from India, Riya, a project manager, and her husband Ram (not his real name), a computer scientist, had embarked on their version of the American dream. They bought a home and a car, had two children (who are both American citizens), and settled in with a supportive community of neighbors, colleagues and friends.

But then their dream became a nightmare.

Riya’s Dilemma

Ram has a Masters Degree in Computer Science. He has been in the United States for 14 years, four on a student visa and ten on an H-1B visa, which is a temporary permit that allows highly skilled foreign-born workers to fill specialized occupations at US companies.

Riya also has a Masters Degree. She has been in the US for ten years on an H-4 visa, which is offered to immediate family members of those with H-1B visas. Riya, who is also qualified for an H-1B visa, has applied for that status, but was not selected by the lottery system that doles out the visas.

Initially, immediate family members who were in this country on H-4 visas were not allowed to work. But in 2015, the Obama administration granted H-4 visa holders the right to work in the U.S. Since then Riya has been happily employed by her Kentucky-based company, and the couple has renewed their visas every three years as required without incident.

But things changed once Donald Trump became president. In its all-out effort to thwart immigration, the Trump administration has directed the Department of Homeland Security and its agency, the United States Citizenship and Immigration Service (USCIS), to change immigration guidelines and regulations within their purview.

Accordingly, in 2019 the administration directed the department to rescind work authorizations for H-4 visa holders. A letter objecting to the change was signed by 130 members of Congress and sent to the administration, saying “let these people work” – but to no avail. In the end, Riya’s work authorization was not renewed, and her employer had no choice but to let her go. As a

result, Riya, along with tens of thousands of skilled H-4 visa holders, was out of work and out of luck.

A system with massive problems

While things have gotten markedly worse recently, the U.S. immigration program has suffered from massive systemic problems for many years, according to Nima Kulkarni, Kentucky State Representative for District 40 and founder and managing attorney with the Indus Law Firm.

“The H-1B Visa program was created in 1990 at a time when software engineers and IT professionals were urgently needed to build the Internet and other computer systems. The annual cap of 65,000 H-1B visas, which was established by Congress in 1990, has not changed since then, despite the exponential growth in demand,” Ms Kulkarni says. In fact, last year, more than 230,000 petitions were filed for the 65,000 spots in the H-1B visa allotment. (An additional 20,000 H-1B visas per year have been allotted for individuals who hold Masters degrees or higher from U.S universities.)

Making matters worse for individuals from countries of highest demand like India, the annual per-country visa allotment is the same number (9,800) for every country, even small countries with low demand like Iceland. This per-country cap, coupled with the enormous demand by Indian citizens, is the reason Ram has not been granted permanent residency status, despite having his green card petition approved in 2014. Thus, he has had to renew his H-1B visa every three years, and wait in line with hundreds of thousands of others.

For those who say to visa-holders, “get in line” for permanent citizenship status, it is a long, long line. The backlog of visa applications has become immense over the years, and it is only getting worse. According to the Cato Institute, the wait time for individuals from India with advanced degrees to get a permanent residency green card is 150 years.

The situation today

Since Congress has failed to update the law to respond to current conditions and demands, agencies like USCIS have stepped in to manipulate the system with a welter of regulations and requirements, plus a slew of forms to file, fees to pay, and hurdles to clear.

Along with multiple forms and fees that must be filed by immigrants and their sponsoring employers, USCIS has initiated a requirement for biometrics (fingerprints and photo ID) which adds additional time and complexity to the process.

“The whole system has slowed to a crawl,” Ms. Kulkarni says.

For a state like Kentucky, the slowdown of highly skilled immigrant arrivals is a major detriment to economic development. “No high-tech company is going to locate in Kentucky if they do not have the skilled labor force,” Ms. Kulkarni says. “This is not a system that is working. Instead of letting the market determine how many workers to admit, this administration has set arbitrary limits. Our system is so outdated.”

Until recently there has been very little oversight of the system. But now, in response to the increased agency restrictions and administrative burdens, there are several ongoing congressional inquiries, multiple lawsuits, increased employer lobbying, and federal legislation.

In July the U.S. House of Representatives passed HR 1044, a bill designed to remove country-based green card limits. Its equivalent Senate bill S386 was blocked by Senator Rand Paul.

Accordingly, Ram has reached out to Sen. Paul to discuss the bill and to lobby for its passage.

Recently, he spoke with a staff member in Sen. Paul's Bowling Green office. When asked what his issue was, Ram responded that it was the S386 bill that Sen. Paul had blocked. The staffer said the senator was aware of the issue, and she would pass him the message, although no appointment was granted.

In the meantime, Riya and Ram continue living in limbo. "This has been a barrier to our dreams," Riya said.

But Ram says he has hope and he will continue fighting. "I am doing this for the future – to make others happy."