

DATE: December 31, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-08466

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

Kathryn D. MacKinnon, Esq., Department Counsel

FOR APPLICANT

Thomas Albin, Esq.

SYNOPSIS

Applicant, a native of southern India, acquired United States citizenship in March 1995, effectively renouncing his Republic of India citizenship. His continued possession of an Indian passport does not reflect a preference for India, as the foreign passport was no longer valid for travel. Applicant did not report his possession of the passport on his June 2000 security clearance application because it was null and void. While he omitted his past employment in foreign countries from his August 1995 and June 2000 security clearance applications, he had no intent to conceal his employment. There is little risk of foreign influence presented by the foreign citizenship and residency of family members. Clearance is granted.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 (as amended by Executive Orders 10909, 11328 and 12829) and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 (as amended by Change 4), issued a Statement of Reasons (SOR), dated May 17, 2002, to the Applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. DOHA recommended referral to an Administrative Judge to conduct proceedings and determine whether clearance should be granted, continued, denied or revoked. The SOR was based on foreign influence (guideline B) concerns because of the foreign residency and/or citizenship of close family members (spouse, mother, siblings and in-laws); on foreign preference (guideline C) related to his possession of a foreign passport after he had acquired United States citizenship through naturalization; and on personal conduct (guideline E) because of his failure to disclose on an August 1995 National Agency Questionnaire (NAQ) and on a June 2000 Security Clearance Application (SF 86) his past employment and consultant services for a foreign government and foreign firm, and his possession of a passport issued by the Republic of India on June 1, 1992.

Applicant, acting *pro se*, ⁽¹⁾ filed a notarized response dated June 13, 2002, to the allegations set forth in the SOR, and requested a hearing before a DOHA Administrative Judge. On August 14, 2002, the case was assigned to me to conduct

a hearing, and pursuant to formal notice dated August 23, 2002, a hearing was scheduled for September 12, 2002. At the hearing, fourteen documentary exhibits (one joint, ten Government and three Applicant exhibits) were admitted into the record. Testimony was taken from two witnesses (Applicant's second level supervisor and Applicant's spouse) in addition to the Applicant. With the receipt on September 23, 2002, of the transcript of the proceedings, this case is ripe for a decision.

FINDINGS OF FACT

After a thorough review of the evidence, and on due consideration of the same, I render the following findings of fact:

Applicant is a 41-year-old naturalized citizen of the United States, who has been employed as a structural designer by a United States defense contractor (company A), most recently since late June 2000. Applicant had worked for the company as a designer in the past from June 1995 to April 1998, and held a secret security clearance during that time. On his rehire, Applicant was granted a company confidential clearance. Two months later, his clearance was upgraded to secret. Applicant held that clearance until it was revoked on issuance of the SOR.

Applicant was born in the Republic of India in March 1961 to an upper class Hindu family residing in a remote village in a southern province of India. Raised and educated in that province through the associates degree level, Applicant had dreams of coming to the United States. As a student, Applicant traveled sometimes three hours to see an English language movie.

In July 1982, Applicant was issued a passport by the Republic of India, scheduled to expire in mid-May 1987. On earning the equivalent of an associate degree in civil engineering, Applicant in January 1983 was hired by his local province as a superintendent in its public health and engineering department. As a state employee, Applicant supervised the installation of water pipes to private residences until November 1983.

In November 1983, Applicant went to work for a private company in Bahrain because he could earn a greater income. Originally granted a visa for a two-year term, Applicant entered Bahrain on his Indian passport. For about six or seven months, Applicant was employed as a site supervisor in the construction of large homes. In mid-1984, Applicant took a job with another private construction company where he designed homes. Sometime in late 1985/early 1986, Applicant switched employers to a British company which designed roads and housing developments for the Ministry of Housing in Bahrain. As a draftsman, Applicant's work included producing sketches for a power station. In November 1986, Applicant's Indian passport was renewed to early May 1992.

In May 1987, Applicant left Bahrain for the United Arab Emirates where he went for work for a company owned by a United States citizen. To May 1989, Applicant was employed as an irrigation and sprinkler designer and draftsman developing structural, mechanical and plumbing drawings for pump houses, and supports for sprinkler systems for farms and a golf course. Unable to obtain a permanent work visa for the United Arab Emirates, Applicant traveled to Bahrain on his Indian passport every two weeks on a tourist visa, with the travel costs paid for by his employer.

In May 1989, Applicant returned to India where he awaited United States approval to emigrate to this country. Sponsored by his eldest sister, a United States resident citizen married to a physician (now retired), Applicant in about July 1989 entered the United States on his Indian passport. With status as a permanent resident, Applicant over the next six years worked for private engineering firms preparing drawings for bridges, multistory buildings, and the local subway system.

While Applicant was gainfully employed in the United States as a structural designer, he traveled to India in October 1990 for his marriage. En route, he stopped in the United Arab Emirates for a week to visit two of his sisters, who still live there with their spouses. In late November 1990, in a marriage arranged by their parents, Applicant wedded a woman from his native region in India.

Applicant returned to the United States in February 1991 with flight connections through the United Arab Emirates. Applicant stayed two or three days with his sisters during his stopover. Applicant's new bride remained in India, pending United States approval of her emigration.

In January 1992, Applicant traveled to India to see his spouse and other family members (parents and two sisters) with a two-day stopover in Bahrain en route. In April 1992, Applicant returned to India for his father's funeral, and he stayed until early May 1992. With his Indian passport scheduled to expire in late May 1992, Applicant applied for renewal. In early June 1992, Applicant was issued an Indian passport by the Indian Embassy in the United States. The passport, valid until May 31, 2002, was not renewable. Applicant traveled only once on this passport, to India for an extended stay from early January 1993 to mid-April 1993.

Almost three years after their wedding, Applicant's spouse emigrated to the United States in mid-November 1993. Shortly thereafter, she was granted a "green card," but she elected not to work outside the home. One year later, in late November 1994, a daughter was born to Applicant and his spouse in the United States.

In March 1995, Applicant became a United States naturalized citizen, taking an oath to renounce all foreign allegiances, to support and defend the United States Constitution and its laws, and to bear arms or noncombatant service or civilian service on behalf of the United States if required. Planning to travel to India, Applicant informed the Republic of India consulate he had acquired United States citizenship and asked what he should do with his Indian passport. Applicant was told he could keep the passport (which he had brought with him to the consulate) as the document was null and void for travel.⁽²⁾ Applicant later learned that acquisition of United States citizenship operated as a renunciation of his Indian citizenship, rendering the foreign passport invalid for travel.

On March 25, 1995, Applicant applied for employment as a designer with company A. On his application, Applicant listed past employment in Bahrain and the United Arab Emirates from July 1984 to March 1989.

In early April 1995, Applicant was issued his United States passport, valid until early April 2005. Applicant has used this passport exclusively for travel since, including on trips to India, for the most part annually through 2001. On trips to India taken in May 1995, November 1999 and late September 2001, Applicant also went to the United Arab Emirates for a few days to visit his two sisters.

Hired by company A, Applicant commenced work for the defense contractor in mid-June 1995 as a structural designer. Required to obtain a secret security clearance for his duties, Applicant executed on August 4, 1995, a National Agency Questionnaire (EPSQ version) on which he indicated his mother and five of his six siblings were resident citizens of India.⁽³⁾ He provided the United States naturalization number for his sister residing in the United States and disclosed the resident alien status of his spouse. In response to inquiry into foreign travel, he listed his most recent trips to India in 1993 and 1995. Regarding whether he had ever been issued a passport by a foreign government, Applicant reported a passport issued by India in July 1982 with expiration in May 1992. Applicant did not disclose the renewal of that foreign passport in June 1992 as he did not regard it as a valid document once he had acquired United States citizenship. Applicant responded "No" to whether he had ever been employed by, or acted as a consultant for a foreign government, firm or agency (question 11), even though he had been a government employee at the provincial level in 1983, as he thought he was required to report only information within the past seven years. In late July 1995, Applicant was granted a secret security clearance for his duties.

With layoffs looming at company A, Applicant left the employ of the defense contractor in April 1998 for a structural designer position with another division of the corporation in another state. After two years as a senior marine designer, Applicant in June 2000 was rehired by company A. On a resume submitted in application for rehire, Applicant listed foreign employment in Bahrain and in the United Arab Emirates from July 1983 to May 1989. On June 6, 2000, his first day back at company A, Applicant completed a security clearance application (SF 86), EPSQ version. On this SF 86, Applicant listed the United Arab Emirates residency of his two sisters. He also updated foreign travel information, indicating trips to India in May 1995, December 1996, October 1997 and November 1999. Applicant responded "No" to question 13 regarding foreign employment ["Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm or agency?"]. Because other questions on the form had a seven-year scope, Applicant did not realize that he had to list his foreign employment in India in 1983. Since the Indian passport issued to him in June 1992 became null and void on his acquisition of United States citizenship, he did not consider it an active passport, so responded "No" to question 15 concerning a foreign passport ["In the last 7 years, have you had an active passport that was issued by a foreign government?"].

On August 16, 2000, the Assistant Secretary of Defense for Command, Control, Communications and Intelligence (ASDC³I) issued a memorandum clarifying the foreign preference adjudicative guideline with respect to the use and/or possession of a foreign passport to the effect that clearance is to be denied or revoked unless an applicant surrenders the foreign passport or obtains official approval for its use from the appropriate agency of the United States government.

In November 2000, Applicant traveled to India with his spouse and daughter to visit his seriously ill mother. En route to India, Applicant stopped in the United Arab Emirates to visit his two sisters who reside with their families because of their spouses' employments. Applicant traveled to the United Arab Emirates and to India on his United States passport.

On March 1, 2002, Applicant was interviewed by a special agent of the Defense Security Service (DSS) about his foreign connections and omissions of the foreign passport and employments from his security clearance applications. Applicant corrected identifying and address information regarding himself as well as family members, indicating he had provided his mother's address for his sisters on his NAQ in August 1995 as he considered that their home. He discussed his job for the local province in India, his work in Bahrain, and the United Arab Emirates, and his emigration to the United States. With respect to his failure to list his past foreign employment on his August 1995 and June 2000 security clearance applications, Applicant indicated he misunderstood the questions. Applicant provided dates of foreign travel to India, with stops en route in the United Arab Emirates, and presented his past Indian and current United States passports to the DSS agent. He admitted his failure to disclose his renewed passport (in June 1992) on his security clearance applications, explaining the Indian Embassy had informed him the passport was null and void after he became a United States citizen in March 1995. Asked about his contacts with his foreign resident family members, Applicant disclosed contact by telephone with his mother at least once weekly, with one of his sisters in India once every month or two, and with his sisters in the United Arab Emirates also once every month or two. Applicant added that his spouse contacts her parents, who remain resident citizens of India, at least once monthly. Applicant denied any contact with any foreign government officials apart from customs officials at the border during his travels.

As of September 2002, Applicant's mother, brother, two sisters, mother-in-law and father-in-law were resident citizens of India. He contacts his mother by telephone at least once weekly, and sends her money for her medical prescriptions. Applicant has once monthly telephone contact with one of his sisters in India; the other sister does not have a telephone. These sisters do not work outside of the home; their spouses are employed by commercial entities. Applicant's brother is a physician who teaches at several state run medical colleges in India. Applicant has not seen this brother for fourteen years and he maintains no contact with him. Applicant's father-in-law is retired from employment as an engineer for a private company run by Indian citizens and his mother-in-law never worked. His spouse contacts her parents at least once per month by telephone. Applicant is not particularly close to his in-laws, although he sees them on his trips to India as he is accompanied by his wife and daughter. Neither Applicant's nor his spouse's parents speak English.

Approximately once per month, Applicant telephones his sisters in the United Arab Emirates. Both sisters have applied to emigrate to the United States with their family members. They are being sponsored by their elder sister, who sponsored Applicant's 1989 immigration. As of September 2002, their spouses were working for American companies in the United Arab Emirates.

Applicant's spouse has not yet applied for United States citizenship due to a lack of proficiency in the English language. She plans on remaining in the United States and wants to become a United States citizen. Applicant's daughter understands her parents' native language but she is conversant only in English. She attends the local public school.

Applicant and his spouse have no financial assets in India, while their assets (stocks, savings, and retirement funds) in the United States total between \$75,000.00 and \$80,000.00. Applicant votes in United States elections.

Applicant worked on a classified program at company A without adverse incident. His supervisor on that classified program attests to Applicant being one of his best workers. On receipt of the SOR alleging foreign preference, foreign influence and personal conduct concerns, Applicant was transferred to a position on second shift for which he did not require a clearance.

POLICIES

The adjudication process is based on the whole person concept. All available, reliable information about the person, past and present, favorable and unfavorable, is to be taken into account in reaching a decision as to whether a person is an acceptable security risk. Enclosure 2 to the Directive sets forth adjudicative guidelines which must be carefully considered according to the pertinent criterion in making the overall common sense determination required. Each adjudicative decision must also include an assessment of the nature, extent, and seriousness of the conduct and surrounding circumstances; the frequency and recency of the conduct; the individual's age and maturity at the time of the conduct; the motivation of the individual applicant and extent to which the conduct was negligent, willful, voluntary or undertaken with knowledge of the consequences involved; the absence or presence of rehabilitation and other pertinent behavioral changes; the potential for coercion, exploitation and duress; and the probability that the circumstances or conduct will continue or recur in the future. *See Directive 5220.6, Section 6.3 and Enclosure 2, Section E2.2.* Because each security case presents its own unique facts and circumstances, it should not be assumed that the factors exhaust the realm of human experience or that the factors apply equally in every case. Moreover, although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility or emotionally unstable behavior. *See Directive 5220.6, Enclosure 2, Section E2.2.4.*

Considering the evidence as a whole, this Administrative Judge finds the following adjudicative guidelines to be most pertinent to this case:

Foreign Influence

E2.A2.1.1. The Concern: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation or pressure.

E2.A2.1.2. Conditions that could raise a security concern and may be disqualifying include:

E2.A2.1.2.1. An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country

E2.A2.1.3. Conditions that could mitigate security concerns include:

E2.A2.1.3.1. A determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States

Foreign Preference

E2.A3.1.1. The Concern: When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

E2.A3.1.2. Conditions that could raise a security concern and may be disqualifying also include:

E2.A3.1.2.2. Possession and/or use of a foreign passport

E2.A3.1.3. Conditions that could mitigate security concerns include:

E2.A3.1.3.2. Indicators of possible foreign preference occurred before obtaining United States citizenship

Personal Conduct

E2.A5.1.1. *The Concern*: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

E2.A5.1.2. Conditions that could raise a security concern and may be disqualifying also include:

None applicable.

* * *

Under the provisions of Executive Order 10865 as amended and the Directive, a decision to grant or continue an applicant's clearance may be made only upon an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination required, the Administrative Judge can only draw those inferences and conclusions which have a reasonable and logical basis in the evidence of record. In addition, as the trier of fact, the Administrative Judge must make critical judgments as to the credibility of witnesses. Decisions under the Directive include consideration of the potential as well as the actual risk that an applicant may deliberately or inadvertently fail to properly safeguard classified information.

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Burden of Proof

Initially, the Government has the burden of proving any controverted fact(s) alleged in the Statement of Reasons. If the Government meets its burden and establishes conduct cognizable as a security concern under the Directive, the burden of persuasion then shifts to the applicant to present evidence in refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of criterion conduct, it is clearly consistent with the national interest to grant or continue his security clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. Where the facts proven by the Government raise doubts about an applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that he is nonetheless security worthy. As noted by the United States Supreme Court in *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988), "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security. *See* Enclosure 2 to the Directive, Section E2.2.2.

CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal precepts and factors, and having assessed the credibility of those who testified, I conclude the following with respect to guidelines B, C and E:

Under guideline B, a security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he is bound by affection, influence or obligation, are not citizens of the United States or may be subject to duress. Applicant's mother, three siblings, and his in-laws are resident citizens of the Republic of India. Two other sisters reside in the United Arab Emirates with their families. Applicant's spouse, a lawful permanent resident in the United States, also has Indian citizenship. Disqualifying condition E2.A2.1.2.1., an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country, must be considered in assessing Applicant's current suitability for access to classified information.

The security concerns engendered by the foreign citizenship and/or residency of such close family members may be mitigated where it can be determined that the immediate family member(s), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force an individual to choose between loyalty to the person(s) involved and the United States (E2.A2.1.3.1.). Regarding Applicant's spouse, her United States residency lessens the risk of coercion being placed on her by any foreign official. She testified credibly to her intent to acquire United States citizenship, which would operate as a renunciation of her Indian citizenship. Regarding Applicant's relations who reside abroad, there is no evidence of any undue influence ever being exerted by any foreign authority. None of his siblings or their family members (with the possible exception of his brother) have been engaged in professional or business pursuits which would cause attention to their activities. Applicant's mother, mother-in-law and sisters have maintained traditional Indian households, staying at home to take care of the family. The spouses of his two sisters in the United Arab Emirates work for United States companies, and they are seeking to emigrate to the United States.

It is not clear whether Applicant's brother, a physician who also teaches at several state run medical schools in India, is an employee of a foreign state, although his position obviously presents the potential for contact with foreign government authorities. The potential for undue foreign influence being placed on Applicant because of his brother is nonetheless remote because Applicant does not have a close relationship with his brother. Applicant has not seen this brother in fourteen years and does not contact him. Although Applicant travels to India approximately once per year to see his mother and siblings, stopping en route to see his two sisters in the United Arab Emirates, and he telephones them with some frequency (his mother once per week to inquire about her health and his sisters about once a month), there is nothing untoward or unreasonable about Applicant's contacts with these family members. His spouse calls her parents with some regularity, but Applicant is not particularly close to his father-in-law, a retired engineer, or his mother-in-law, who has never worked outside the home. Applicant has worked hard to make a life for himself and his family in the United States, and he has appropriately handled classified material in the past. In the unlikely event any of Applicant's relations were to become subjected to undue influence or pressure, I am persuaded Applicant would report to proper authorities in the United States any contacts, requests or threats by foreign authorities or individuals. Subparagraphs 1.a., 1.b., 1.c., and 1.d. are resolved in his favor.

Guideline C is based on actions taken by an individual which indicate a preference for a foreign country over the United States. Born in the Republic of India, Applicant emigrated to the United States in 1989, sponsored by his eldest sister who had herself emigrated from India in about 1977. While gainfully employed as a permanent resident, Applicant traveled to his native region in India on his Indian passport to see his parents and siblings. In June 1992, his foreign passport was renewed in the United States by the Embassy of the Republic of India. His use and renewal of the foreign passport at that time do not raise foreign preference (guideline C) concerns, as they occurred before he acquired United States citizenship.⁽⁴⁾ In March 1995, Applicant acquired United States naturalized citizenship, which operated as a renunciation of his foreign citizenship. The following month, he was issued his United States passport. Applicant thereafter traveled exclusively on his United States passport, presenting it to enter the United Arab Emirates and India to see family members. While Applicant had an Indian passport which on its face had an expiration date in late May 2002, he understood from the Indian consulate that this passport was no longer valid for travel after he acquired his United States citizenship. His retention of this Indian passport was not intended as an act of foreign preference. While Applicant continues to have familial ties and cultural ties to India (he speaks his native tongue to his family members in India), his lifestyle is largely consistent with his United States citizenship. Employed here consistently since 1989, he and his spouse intend to remain in the United States.⁽⁵⁾ Applicant has financial assets of between \$75,000.00 and \$80,000.00 in this country, and he votes in United States elections. His acquisition of United States citizenship, which unlike his Indian citizenship required affirmative action on his part, demonstrates his preference for the United States. There is little risk, if any, that he will act in preference to the Republic of India over the United States, notwithstanding the presence in India of close family members. Subparagraph 2.a. is resolved in his favor.

The Government's case under personal conduct (guideline E) is based on Applicant's omission of relevant information concerning his possession of a foreign passport and foreign employments from his security clearance applications executed in conjunction with his need for classified access to perform his duties at company A. Approximately six weeks after he commenced employment with the defense contractor in 1995, Applicant completed a NAQ on which he responded "No" to whether he had ever been employed by, or acted as a consultant for a foreign government, firm or agency (question 11). Likewise, on the day he started back at work in June 2000, Applicant completed a SF 86 on which

he responded "No" to question 13 ["Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm or agency?"]. Applicant testified-with no credible evidence to the contrary presented by the Government-that when he worked on projects for the ministry of housing in Bahrain and for an engineering company in the United Arab Emirates, he was employed by private commercial entities and not a foreign government agency. While his direct employer in the United Arab Emirates was a United States citizen-owned enterprise, he worked for a British company in Bahrain and had been directly employed by his native province in India as a public health and engineering superintendent in 1983. This foreign employment should have been listed in response to question 11 on the NAQ and to question 13 on the SF 86.

Personal conduct concerns exist where the omission of relevant and material facts from any personnel security questionnaire was deliberate (*see* E2.A5.1.2.2.). In denying any intentional concealment, Applicant explained he thought he was required to list only that foreign government employment which had occurred within the seven years preceding the execution of the clearance application. The question is unambiguous in its language ("Have you ever been employed . . ."), and other questions on the form are not limited to a seven-year time frame. While it is not clear what gave Applicant the impression that he only had to go back seven years (he did not present any documentation of advice given to him by an authorized person, or of instructions indicating a seven-year scope), Applicant had reported his employment in Bahrain and the United Arab Emirates on his application for employment with company A, which required him to report employment within the past ten years. His disclosure on his employment application completed in March 1995 and on his resume presented on his application for rehire by the company in 2000 does not relieve him of his responsibility to report that information on his security clearance applications, but it is persuasive evidence Applicant had no intent to conceal his foreign employment. Given that his omission of his foreign employment was due to a misunderstanding of what was required, he did not engage in a knowing and intentional omission which would trigger E2.A5.1.2.2. To Applicant's credit, once he became aware of the need to report the information, Applicant volunteered the salient details as to his foreign employment without reservation. Favorable findings are warranted as to subparagraphs 3.a. and 3.c. of the SOR.

The Government also alleged deliberate falsification of the August 1995 and June 2000 security clearance applications because of Applicant's failure to disclose his possession of an Indian passport with a scheduled expiration date of May 2002. At the time Applicant completed both security clearance applications, he was no longer a citizen of the Republic of India. Since he had been told by the Indian consulate that his Indian passport was "null and void," Applicant did not consider it a valid document. Consistent with that understanding, he listed on his August 1995 application his past possession of an Indian passport from July 1982 to May 1992, and responded "No" on his June 2000 SF 86 to question 15 ["In the last 7 years, have you had an active passport that was issued by a foreign government."]. While the Indian passport issued on renewal in early June 1992 was valid until he acquired his United States citizenship in March 1995, it was not an active passport at the time Applicant completed his NAQ or SF 86. While Applicant brought this foreign passport among other documents with him to his DSS interview in March 2002, his purpose in doing so was not to correct an earlier act of known concealment. Rather, he presented all his passports to the DSS agent to provide an accurate account of his travels abroad. Subparagraphs 3.b. and 3.d. are found in his favor as his failure to disclose the renewal of the passport was due to an innocent misunderstanding.

FORMAL FINDINGS

Formal Findings as required by Section 3. Paragraph 7 of Enclosure 1 to the Directive are hereby rendered as follows:

Paragraph 1. Guideline B: FOR THE APPLICANT

Subparagraph 1.a.: For the Applicant

Subparagraph 1.b.: For the Applicant

Subparagraph 1.c.: For the Applicant

Subparagraph 1.d.: For the Applicant

Paragraph 2. Guideline C: FOR THE APPLICANT

Subparagraph 2.a.: For the Applicant

Paragraph 3. Guideline E: FOR THE APPLICANT

Subparagraph 3.a.: For the Applicant

Subparagraph 3.b.: For the Applicant

Subparagraph 3.c.: For the Applicant

Subparagraph 3.d.: For the Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant.

Elizabeth M. Matchinski

Administrative Judge

1. Applicant testified a security official at his place of employment assisted him with his answer. (Tr. p. 73).
2. Unaware until later that India does not recognize dual citizenship, Applicant understood only at that time that the passport was no longer valid for travel.
3. Applicant did not provide current addresses for the two sisters who live in the United Arab Emirates, listing the family's home in India as the address.
4. *See* E2.A3.1.3.2. Indicators of possible foreign preference occurred before obtaining United States citizenship.
5. Applicant presented into evidence a newspaper photograph showing his daughter with her schoolmates reciting the Pledge of Allegiance. (Ex. C). Applicant testified credibly to being proud of the picture and to his desire for his daughter to have a good life in the United States. (Tr. pp. 103-04).