

# US court dismisses court challenging work authorisation of H-1B spouses

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## Synopsis

The H-4 visa is issued to spouses of H-1B visa holders that allows them to apply for employment authorisation (EAD) to legally work in the US. It is estimated that about 90% of the over 90,000 H-4EAD holders are Indian women.



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The lawsuit was opposed by several large companies like Amazon, Google, Microsoft and Apple who are among the biggest employers of H-1B visa holders (Illustration: Rahul Awasthi)

A Washington DC court has dismissed a lawsuit challenging the rights of [H-4 visa](#) holders to work in the US, a ruling that will benefit thousands of Indians in that country.

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“The judgement will impact Indians the most as the majority of H-4 EAD holders are Indian women,” said Poorvi Chothani, managing partner at LawQuest, a global immigration firm. “Not being able to work has a detrimental impact on the economic well-being and mental health of those on H-4 visas, who are mostly women,” she said.

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The lawsuit had been filed by Save Jobs USA, a group of workers who say their jobs have been replaced by H-1B visa holders. It questioned the legality of Homeland Security being allowed to create a rule that allows for the issuance of employment authorisation to the spouses of H-1B visa holders.

This was opposed by several large companies like Amazon, Google, Microsoft and Apple who are among the biggest employers of H-1B visa holders. They said the ability of H-1B holders' spouses to also get jobs in the US has been a major attraction for highly skilled foreign workers.

“This lawsuit had been filed in 2015. The court has dismissed it saying there’s no ground for this case and that the USCIS has the authority to promulgate this program,” said Rajiv S Khanna, managing partner, [immigration.com](https://www.immigration.com). The EAD program had been introduced during former president Barack Obama's term.

Judge Tanya Chutkan rejected the contention by Save Jobs USA, reported Bloomberg.

“Plaintiff’s primary contention is that Congress has never granted DHS authority to allow foreign nationals, like H-4 visa-holders, to work during their stay in the United States,” the judge wrote. “That contention runs headlong into the text of the (Immigration and Nationality Act), decades of executive-branch practice, and both explicit and implicit congressional ratification of that practice.”

The ability of the spouses of H-1B visa holders, many of whom are also skilled professionals, has been important in helping retain these workers in the US.

Chothani pointed out that while India, too, doesn’t directly allow spouses of foreign nationals on a work permit to work in India, once they do find a job, they simply need to fly out of the country to get their employment visa stamped. In certain instances, they may be issued a work visa within India.