H-1B Visa

Why in news?

The US administration has changed its policy stance on H-1B visa.

What are the new changes?

- The US administration said it was announcing an **interim final rule,** which will strengthen the non-immigrant work visa programme.
- The new rules will be effective **60 days** from their publication in the Federal Register, which is the official journal of the US government.

What is an interim final rule?

- Executive policies announced by agencies such as the Department of Homeland Security (DHS) or the US Citizenship and Immigration Services (USCIS) require them to consult stakeholders.
- They should give them a notice period of 60 days and seek comments before any sweeping changes are brought in.
- This method allows agencies such as DHS to act with urgency and within a specified time after a new rule or law is made.
- In the latest announcement on the proposed policy changes, the DHS said that the USCIS would forgo the usual 60-day comment.
- It also said that notice period to immediately ensure that employing H-1B workers will not worsen the economic crisis caused by COVID-19.
- The impact of the pandemic on the US economy and its domestic workers was an obvious fact which justified the agency issuing this rule.

What are the new proposed changes?

- **Detrimental** - As per the DHS, the H-1B work visa regime had over the years gone far beyond the mandate, for which it was launched, often to the detriment of US workers.
- Therefore, in order to bring back the integrity to the regime, the DHS has announced some changes.
- These changes would ensure that H-1B petitions are approved only for qualified beneficiaries and petitioners.
- The new rule will narrow down the definition of what constitutes a “specialty occupation”.

- This means that companies and agencies which hire workers on H-1B visas will have a tough time proving to the immigration agencies that such employees are not available from the domestic pool of workers.
- **Filling Quota** - Another proposed change relates to companies allegedly making fictitious work offers to fictitious employees just to fulfil their quota of H-1B visa applications approved.
- The US administration had alleged that both Indian and the US-based companies have often given fictitious H-1B work visa offers to foreign employees.
- They do so to evade some part of taxes, while also undercutting the jobs for eligible US workers.
- **Enforcement** - The final proposed rule change talks about better enforcement of the new H-1B norms which will be announced later.
- This will be done through worksite inspections and monitoring compliance, before, during and after the H-1B work visa is approved.

How many permits are issued?

- Every year, the US administration issues 85,000 H-1B work permits in all. Of these,
    a. 65,000 are for people with specialty occupations.
    b. 20,000 are reserved for those foreign workers who have earned a masters or higher university degree in the US.
- Every year, Indians and Indian companies corner a lion's share of the number of H-1B work permits issued each year.

How will the changes impact Indian IT companies?

- As of April 1, 2020, the USCIS had received about 2.5 lakh H-1B work visa applications.
- Indians had applied for as many as 1.84 lakh of these visas.
- Since the definition of "specialty occupation" is proposed to narrow down, the 65,000 visas issued every year may be brought down.
- Indian IT giants such as TCS, Infosys and others have in the past insisted that they have reduced their dependence on H-1B visas to a large extent.
- But, a reduction in the overall quota would still mean that,
    a. The number of workers they would have to shell out more money to hire local talent or
    b. Pay more to the existing H-1B work visa holders.

How will the changes impact global IT companies?

- The proposed change could also impact global IT companies which hire H-1B

visa workers in a great number.
- Most of these H-1B work permit holders were Indians.
- H-1B visas, most often used by Indian and Chinese companies, are generally approved for a period of three years for a person.
- But many visa holders change employers to extend their US stay.
- The visa norms have often been criticised for allowing cheap labour in the US at the expense of its local workforce.

What happens to the old rules and relaxations?

- The DHS has come out with a broad plan on what it intends to do to repair the H-1B work visa regime.
- But, the final contours and exact changes are not known yet.
- The changes are seen as a poll promise being fulfilled by Donald Trump.
- Once the DHS comes out with the final norms, it will have to be seen whether the new rules apply only to the fresh work visas that are issued or also to the existing visa holders.
- Until then, the relaxations announced by the Trump administration in August 2020 would continue to apply.

Source: The Indian Express

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