

Green Card through Consular Processing with Approved I-140

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Submitted by Chief Editor on Nov 28th 2012

Question 1. I have done MS from US and worked on H-1 for 5 years. Started GC process, I-140 approved with Priority date May 2011. Came to India for H-1 stamping and it was denied twice. If I apply for my H-1 and if I don't get H-1, then can my employer continue processing my GC through Consular Processing when I am in India. Also is there any law stating that my employer can not keep the I-140 when my H-1 has been expired & if it so then for how long can my employer keep my I-140 active? Question 2. If my employer revoke my I-140 & if I come to US on any other visa, then Can I process my GC and port the PD ?

ANSWER:

Answer 1. As long as the job offer exists and the employer is capable of paying the wages, the green card process can go on, even though you are not in USA. You should discuss this matter in detail with your lawyers to better understand the implications. Also, I-140's do not expire.

Answer 2. PD can be ported even if the 140 is revoked by employer. I have a video on this issue

<http://www.immigration.com/media/form-i-140/priority-dates-can-be-carrie...> ^[2]140-revoked

Unless the context shows otherwise, all answers here were provided by Rajiv ^[3] and were compiled and reported by our editorial team from comments and blog on immigration.com ^[4]

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