

Tech sector H-1B employees' spouses can work in US, judge says

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Big technology companies won a major court victory in Washington, where a judge dismissed a suit challenging the rights of highly skilled H-1B visa holders' spouses to work in the U.S.

U.S. District Judge Tanya Chutkan on Tuesday issued a decision

upholding the Obama-era rule under which the U.S. Department of Homeland Security has issued H-4 visas to the spouses of hundreds of thousands of H-1B workers in the U.S., 70% of whom hold science and engineering jobs in the tech sector. Amazon.com Inc., Apple Inc., Google, Microsoft Corp. were among the companies who urged the judge to let the rule stand.

In her ruling, Chutkan rejected arguments by Save Jobs U.S., a group representing Southern California Edison computer professionals who said they had been replaced by H-1B visa-holders. Save Jobs had claimed Homeland Security wasn't legally permitted to put the rule in place and sought to eliminate work authorizations for more than 90,000 new H-4 visa holders.

"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."

A lawyer for Save Jobs said the group would likely appeal. "We now have complete chaos as the [federal courts](#) have seized control over the immigration system from Congress and handed that authority over to DHS," the lawyer, John Miano, said.

Tech companies were among a group, including the U.S. Chamber of Commerce, that filed a brief in the case arguing that eliminating H-4 visas "would not only siphon off U.S. [gross domestic product](#), but gift that productivity—and the innovation that comes with it—to other nations."

Chutkan had previously dismissed the suit, ruling that Save Jobs lacked

standing to challenge the H-4 rule. But a [federal appeals court](#) reversed that ruling in 2019 and revived the case.

The case is *Save Jobs U.S. v. U.S. Department of Homeland Security*, 15-cv-00615, U.S. District Court, District of Columbia (Washington).

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