U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37698369

Date: APR. 21, 2025

Motion on Administrative Appeals Office Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner, identified as a retail clothing store, seeks to temporarily employ the Beneficiary as its vice president under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity, including its affiliate or subsidiary, to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

Service Center Operations (SCOPS) denied the petition, concluding that the Beneficiary was in the United States during the time that the Petitioner claimed she was engaged in qualifying employment outside the United States. SCOPS twice reopened the petition on the Petitioner's motion, and both times SCOPS again denied the petition. The Petitioner then filed an appeal, which we dismissed. The Beneficiary of the petition then filed a motion to reopen. We dismissed that motion because the beneficiary of a petition generally lacks standing to file an appeal or motion. The matter is now before us on another motion. Although the Petitioner indicated on the appeal form that it was filing a motion to reopen, the accompanying brief refers to the filing as a motion to reopen and reconsider.

The Petitioner must demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motion.

A. Motion to Reconsider

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In its latest motion, the Petitioner states that "the sole issue is whether the Petitioner established that the Beneficiary . . . [had] executive control . . . over the foreign company."

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). In this instance, the prior decision is our decision dated January 8, 2025.

That decision did not address the merits of the petition and the issue of executive control. Rather, we dismissed the previous motion because the Beneficiary had signed the appeal form and had not provided evidence to establish that she was an authorized official of the petitioning entity.

In our January 2025 decision, we cited the regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B), which indicates that the definition of an "affected party" "with legal standing" to file an appeal or motion "does not include the beneficiary of a visa petition." This was the only ground for dismissal of the motion, and is therefore the only issue properly before us now on motion. The Petitioner's latest motion includes a complete copy of our January 2025 decision, but the Petitioner's motion brief does not acknowledge or rebut this ground for dismissal.

Because the Petitioner has not identified any error in our January 2025 decision, we must dismiss the motion to reconsider. 8 C.F.R. § 103.5(a)(4).

B. Motion to Reopen

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits a printout of the "Financial Managers" page from the U.S. Bureau of Labor Statistics' *Occupational Outlook Handbook*. The Petitioner asserts that these new facts establish eligibility by explaining the nature of the Petitioner's claimed position in India. The nature of these duties, however, was not a basis for the January 2025 decision.

The printout from the *Occupational Outlook Handbook* does not establish that the Beneficiary had standing to file the prior motion. Therefore, the newly submitted materials do not address the only ground for dismissal that we cited in our January 2025 decision.[1]

We note that, throughout this proceeding, the predominant issue has not been the nature of the Beneficiary's claimed employment in India, but rather the lack of verifiable evidence that the employment took place at all. The Petitioner claimed that its affiliate in India has employed the Beneficiary without interruption since March 2019. But, as SCOPS has previously informed the Petitioner, government records confirm that the Beneficiary entered the United States in October 2013.

On the Form I-129 petition itself, the Petitioner acknowledged that the Beneficiary's most recent entry into the United States was before 2019, and that the beneficiary resided in Texas at the time of filing. There is no record of her departure, and the Petitioner has not submitted any verifiable documentary evidence that would confirm the Beneficiary was in India in 2019-2022. General documents about the nature of the Beneficiary's claimed position abroad do not address this underlying issue, even if that issue were actively under consideration in the present motion. The Petitioner previously sought to overcome the information in government travel records by submitting purported payroll records

[1] The body of the brief repeatedly identifies the petitioning U.S. employer as [redacted] which is not the name of the petitioning company.

dated 2020, and by claiming without evidence that the government destroyed records of later departures and arrivals, but these assertions do not outweigh the objective documentary evidence indicating that the Beneficiary arrived in the United States in 2013 and apparently never left.

We will dismiss the motion, because it does not meet the requirements of a motion to reopen. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.