U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-S-, INC.

DATE: APR. 25, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, an international electronic commerce company, seeks to temporarily employ the Beneficiary as a technical program manager III under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) § 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.

The Director of the California Service Center denied the petition, concluding that the record did not establish, as required, that: (1) the Beneficiary is employed abroad in a managerial or executive capacity; and (2) the Petitioner will employ the Beneficiary in the United States in a managerial or executive capacity.

On appeal, the Petitioner submits a brief and asserts that the Director erred by concluding that the Beneficiary's current and proposed positions are not managerial.

Upon *de novo* review, we will sustain the appeal.

The Petitioner has established, by a preponderance of the evidence, that the Beneficiary is employed in a qualifying managerial capacity abroad and will be employed in a qualifying managerial capacity in the United States as defined at section 101(a)(44)(A) of the Act. The Petitioner described the Beneficiary's current role abroad as one in which he manages an essential function which provides marketplace sellers in India solutions for warehousing and order processing needs. The Beneficiary, in his current role, delegates tasks and supervises project goals as assigned to a team of 33 indirect reports consisting of: 7 product managers, 3 software development managers, 1 senior software development engineer, and 22 software development engineers. The managers and senior engineer, in turn, supervise and manage the work of the team of software development engineers. The lower-level software engineers perform the bulk of the foreign affiliate's day-to-day, non-qualifying operational duties.

With respect to the Beneficiary's proposed position in the United States, he will be responsible for the essential business function of leading technical implementations from inception to launch across a

number of different initiatives and business teams. The record further establishes that the Beneficiary will indirectly supervise 17 employees consisting of nine software development managers, two senior technical program managers, three senior software development engineers, and three software development engineers.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner in the instant case has sustained that burden.

ORDER: The appeal is sustained.

Cite as *Matter of A-S-, Inc.*, ID# 1842027 (AAO Apr. 25, 2019)