U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 15797024

Date: APR. 27, 2021

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Skilled Worker

The Petitioner seeks to employ the Beneficiary as a senior auditor. It requests classification of the Beneficiary under the third-preference, immigrant category as a skilled worker. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). This employment-based, "EB-3" category allows a U.S. business to sponsor a foreign national for lawful permanent resident status based on a job offer requiring at least two years of training or experience.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that the Beneficiary met the minimum education requirements for the offered position.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. EMPLOYMENT BASED IMMIGRATION

Employment-based immigration generally follows a three-step process. To permanently fill a position in the United States with a foreign worker, a prospective employer must first obtain certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5) of the Act, 8 U.S.C. § 1182(a)(5). DOL approval signifies that insufficient U.S. workers are able, willing, qualified, and available for a position. *Id*. Labor certification also indicates that the employment of a foreign national will not harm wages and working conditions of U.S. workers with similar jobs. *Id*.

If DOL approves a position, an employer must next submit the certified labor application with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Among other things, USCIS considers whether a beneficiary meets the requirements of a certified position and a requested immigrant visa classification. If USCIS approves the petition, a foreign national may finally apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

II. ANALYSIS

The regulation at 8 C.F.R. § 204.5(l)(3)(ii)(B) states that to qualify for skilled worker classification:

> … the petition must be accompanied by evidence that the [beneficiary] meets the educational, training or experience, and any other requirements of the individual labor certification … The minimum requirements for this classification are at least two years of training or experience.

To be eligible for skilled worker classification, therefore, the Beneficiary must meet all specific requirements of the labor certification and have at least two years of relevant experience (or training). All requirements must be met by the petition's priority date, which in this case is December 30, 2019.[1] *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg'l Comm'r 1977).

In this case, section H of the labor certification (Job Opportunity Information) specifies the following with respect to the requirements for the job of senior auditor:

H.4	Education: minimum level	Bachelor's
H.4-B	Major field of study	Accounting
H.5	Training required?	No
H.6	Experience in the job offered required?	No
H.7	Alternate field of study acceptable?	Yes
H.7-A	Specify the major field of study:	Related
H.8	Alternate combination of education and experience acceptable?	No
H.9	Foreign educational equivalent acceptable?	Yes
H.10	Experience in an alternate occupation acceptable?	Yes
H.10-A	Number of months experience required	60
H.10-B	Job title of alternate occupation	Assistant manager, audit senior, or related
H.14	Bachelor's degree or foreign equivalent in Accounting or related. Five years' experience as an assistant manager, audit senior or related, which must include: design, perform and review testing of internal controls over financial reporting as required by PCAOB/Sarbanes-Oxley Act Section 404 (SOX 404); provide financial service for business development companies (BDCs), private equity, hedge funds, fund of funds, and joint venture; and provide financial services related to ASC 820 (FVM), ASU 2011-04 (FVM	

[1] The priority date of a petition is the date the DOL accepted the labor certification for processing. *See* 8 C.F.R. § 204.5(d).

and disclosure reqs), ASU 2013-01 (assets and liabilities offsetting disclosures), ASU 2015-07 (investment disclosures).

Section J of the labor certification states that the Beneficiary earned a bachelor's degree in accounting from [redacted] University, India. The record contains the Beneficiary's Bachelor of Commerce degree from [redacted] University, his transcripts for six semesters of study over three years, and a credentials evaluation of the Beneficiary's foreign university degree with a course-by-course analysis. The evaluation states that the Beneficiary's three-year Bachelor of Commerce degree is equivalent to a U.S. bachelor's degree in accounting. The course-by-course analysis states that the Beneficiary completed 133 credits, while an equivalent U.S. degree in accounting requires a total of 101.5 credits.

The Director issued a request for evidence (RFE), informing the Petitioner that the record did not establish that the Beneficiary's three-year university degree from India was the foreign equivalent of a U.S. bachelor's degree in accounting because a U.S. baccalaureate degree generally requires four years of study. *See Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977).

In response to the RFE, the Petitioner disagreed with the Director's reliance on *Matter of Shah*, asserting that accredited U.S. univerisities frequently offer three-year bachelor's degree programs. In support of this claim, the Petitioner provided a list of U.S. universities offering three-year bachelor's degrees and printouts of their core requirements.

After reviewing the Petitioner's response to the RFE, the Director denied the petition, concluding that the Petitioner did not establish that the Beneficiary possessed the foreign equivalent of a U.S. bachelor's degree as required by the labor certification.

On appeal, the Petitioner states that the Director erroneously disregarded the submitted evaluation of the Beneficiary's foreign educational credentials. The Petitioner also asserts that the Director abused his discretion by applying *Matter of Shah* without conducting a specific analysis of the Beneficiary's credentials.

The Director's decision acknowledges the submitted evaluation but did not give it significant evidentiary weight. Evaluations of academic credentials by evaluation services or individual experts are utilized by USCIS as advisory opinions only. The submission of advisory opinions from experts supporting the petition is not presumptive evidence of eligibility. USCIS may evaluate the content of the opinions as to whether they support the beneficiary's eligibility. Where an opinion is not in accord with other information, is not corroborated, or is in any way questionable, USCIS is not required to accept it or may give it less weight. *See Matter of Sea, Inc.,* 19 I&N Dec. 817 (Comm'r 1988); *see also Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988); *Matter of D-R-*, 25 I&N Dec. 445 (BIA 2011)(expert witness testimony may be given different weight depending on the extent of the expert's qualifications or the relevance, reliability, and probative value of the testimony).

Here, the credentials evaluation and course-by-course analysis were issued by [redacted] However, the evaluation does not indicate the name or qualifications of the evaluator. Nor does the evaluation include any report providing an explanation for its analysis or support for its conclusion that the Beneficiary's three-year Bachelor of Commerce degree is equivalent to a U.S. bachelor's degree in accounting. Similarly, the course-by-course analysis does not include any

explanation of how the Beneficiary's coursework in India was converted to U.S. semester credits, or how the calculation of total subject credits for equivalent U.S. degrees in accounting was made.[2] Accordingly, we concur with the Director's decision to accord the submitted evaluation less evidentiary weight.

In accord with *Matter of Shah*, we have consistently held that a U.S. bachelor's degree generally requires four years of education, and that a three-year foreign degree is generally not equivalent to a U.S. bachelor's degree. The Petitioner asserts that, because some U.S. universities offer three-year bachelor's degree programs and accept three-year foreign degrees as equivalent to bachelor's degrees, it is illogical to conclude that the Beneficiary's three-year degree is not equivalent to a U.S. bachelor's degree. However, the Petitioner did not submit sufficient evidence to establish that the Beneficiary's three-year Bachelor of Commerce degree is the foreign equivalent of a U.S. baccalaureate degree. For example, the Petitioner did not show that the Beneficiary's three-year degree was on an accelerated or compressed schedule that enabled him to obtain a four-year degree in three years.

The labor certification here specifically requires a U.S. bachelor's, or foreign equivalent, degree in accounting or a related field. If the Petitioner was willing to accept a three-year degree as well as a four-year degree, that intent should have been made clear on the labor certification. However, no such intent was expressed on the labor certification.

For these reasons, we affirm the Director's decision to deny the petition. We will dismiss the appeal because the Petitioner has not established that the Beneficiary meets the minimum educational requirements of the labor certification.

ORDER: The appeal is dismissed.

[2] Although not the basis of this decision, we also note that the evaluation is not in accord with the Electronic Database for Global Education (EDGE), described on its registration page as "a web-based resource for the evaluation of foreign educational credentials." http://edge.aacrao.org/info.php. EDGE was created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), which is described on its website as "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions in over 40 countries." http://www.aacrao.org/who-we-are (last visited April 15, 2021). EDGE states that a three-year Bachelor of Commerce degree from India is comparable to three years of university study in the United States. The Petitioner should address these findings by EDGE in any future filing.