U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF N-T- CORP.

DATE: AUG. 10, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a telecommunications technology business, seeks to extend the Beneficiary's temporary employment as a senior technical lead under the L-1B 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-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with "specialized knowledge" to work temporarily in the United States.

The Director of the Vermont Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary possesses specialized knowledge, that he was employed abroad in a position involving specialized knowledge, or that he would be employed in a specialized knowledge capacity under the extended petition. The Director further found that the Petitioner did not establish that the Beneficiary's placement at an unaffiliated employer's worksite would be in connection with the provision of a product or service for which specialized knowledge specific to the Petitioner is necessary.

On appeal, the Petitioner submits additional evidence and asserts that the Director did not fully consider the evidence provided and failed to apply the preponderance of the evidence standard.

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

I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate.

The statute defines specialized knowledge as a special knowledge of the company product and its application in international markets or an advanced level of knowledge of processes and procedures of

the company. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). Our regulations define specialized knowledge as:

> [S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

8 C.F.R. § 214.2(l)(1)(ii)(D).

An individual L-1B petition filed on Form I-129, Petition for a Nonimmigrant Worker, must include evidence that the beneficiary's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge, evidence that the beneficiary's prior education, training and employment qualifies him or her to perform the intended services in the United States, and a detailed description of the services to be performed in a specialized knowledge capacity in the United States. 8 C.F.R. § 214.2(l)(3).

II. DISCUSSION

The sole issue to be addressed is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether he has been employed abroad, and will be employed in the United States, in a specialized knowledge capacity.

To establish that a beneficiary has special knowledge, a petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the company or the particular industry.

The Petitioner provides information technology solutions to communications service providers using a single, cloud-ready platform, which allows its customers to reduce the costs of operations while increasing quality of service. It has developed a proprietary solution called as part of its product offerings. The Petitioner explained that the Beneficiary, who has been employed by its foreign subsidiary for over 12 years, has over nine years of progressive, post-training experience with the product, has contributed to the ongoing development of component modules, and has a breadth and depth of experience with the product that is uncommon within the organization and cannot be gained outside the Petitioner's group.

The Petitioner also provided evidence that the Beneficiary has extensive experience with the custom implementation of for one of the company's major clients, and provided a comparison of his role as part of the team to that of other engineers and technical resources working on the same client account. The record, which includes internal e-mails illustrating the Beneficiary's role and evidence of the Beneficiary's work product, substantiates the

Petitioner's claim that the Beneficiary is deemed a design and development expert with respect to the core software and is not simply familiar with its use, implementation, and support.

The Beneficiary's past employment abroad, and his intended employment in the United States, has been and will be focused on continued development of the product, both the core product and the custom implementation for the Petitioner's client, and therefore, the Petitioner has established that specialized knowledge has been, and continues to be, integral to the Beneficiary's employment with the Petitioner and its foreign subsidiary. Further, the record shows that the proposed off-site employment would be in connection with the provision of a product for which specialized knowledge of the Petitioner's product is necessary. The record of proceeding, as supplemented by the Petitioner's submission on appeal, now contains sufficient evidence to overcome the basis for the Director's decision.

III. CONCLUSION

The Petitioner has established that the Beneficiary possesses specialized knowledge, and that his employment both abroad and in the United States requires specialized knowledge.

ORDER: The appeal is sustained.

Cite as *Matter of N-T- Corp.*, ID# 454721 (AAO Aug. 10, 2017)