U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 13856515

Date: JAN. 7, 2021

Appeal of California Service Center Decision

Form I-129, Petition for L-1B Specialized Knowledge Worker

The Petitioner, an automotive supplier, seeks to employ the Beneficiary temporarily as its "Organization Development Expert" under the L-1B nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The California Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary possesses specialized knowledge and that she was employed abroad and would be employed in the United States in a specialized knowledge capacity. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we conclude that the Petitioner did not meet that burden. Therefore, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1B nonimmigrant visa classification, 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 thereof in a specialized knowledge capacity. Section 101(a)(15)(L) of the Act. The petitioner must also establish that the beneficiary's prior education, training, and employment qualify him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

II. BACKGROUND

The Petitioner is part of a multinational organization that operates in the automotive industry. It was acquired by the Beneficiary's foreign employer in a 2015 purchase transaction and is engaged in the design, manufacture, and distribution of a range of automotive parts. The Petitioner states that the Beneficiary is part of a "rotational program" it has in place for its "key personnel" who possess "unique knowledge of [its] product lines, internal procedures, manufacturing and production methods, and business practices." It points to the Beneficiary's baccalaureate degree in business administration and marketing and her four years of employment in the automotive industry with the Petitioner and its

foreign parent entity, claiming that the Beneficiary's education and work experience resulted in an "advanced level of expertise" in methodology and products that are proprietary and unique to the Petitioner's organization. The Petitioner states that the Beneficiary's position abroad involved "specialized knowledge job duties," including being responsible for global leadership communication, supporting corporate integration by assuming a critical role on the integration management team, designing a leadership communications program, and putting forth initiatives that deal with global strategy and a corporate management system. The Petitioner also claims that the Beneficiary's proposed position will involve "specialized tasks," including consulting upper-level managers and executives in the implementation of "strategy-oriented change" and development projects, conceptualizing and planning "organization development processes," ensuring that the organization's "change processes" are consistently integrated and align with corporate goals, and supporting management in creating a "holistic approach" for developing the organization's design, process, communications, and "team/culture."

III. SPECIALIZED KNOWLEDGE

The primary issue in this matter is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether she has been employed abroad, and will be employed in the United States, in a specialized knowledge capacity.

As a threshold issue, we must determine whether the Petitioner established that the Beneficiary possesses specialized knowledge. If the evidence is insufficient to establish that he possesses specialized knowledge, then we cannot conclude that the Beneficiary's past and intended future employment involve specialized knowledge.[1]

A beneficiary is deemed to have specialized knowledge if he or she has: (1) a "special" knowledge of the company product and its application in international markets; or (2) an "advanced" level of knowledge of the processes and procedures of the company. Section 214(c)(2)(B) of the Act. A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition.

As both "special" and "advanced" are relative terms, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others. With respect to either special or advanced knowledge, the petitioner ordinarily must demonstrate that the beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary's knowledge or expertise is special or advanced, and that the beneficiary's position requires such knowledge.

Special knowledge concerns knowledge of the petitioning organization's products or services and its application in international markets. To establish that a beneficiary has special knowledge, the petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or

[1] The Petitioner does not claim that the Beneficiary was employed abroad in an executive or managerial capacity.

uncommon in comparison to the knowledge of other similarly employed workers in the particular industry.

Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the petitioning entity may meet its burden through evidence that the beneficiary has knowledge of or an expertise in the organization's processes and procedures that is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. We cannot make a factual determination regarding a given beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary's knowledge. The petitioner should also describe how such knowledge is typically gained within the organization and explain how and when the individual beneficiary gained such knowledge.

In the present matter, the Petitioner initially submitted a supporting cover letter highlighting the Beneficiary's experience in the automotive industry which it claims resulted in "unique knowledge of the company's product lines, internal procedures, manufacturing and production methods, and business practices." However, the Petitioner did not describe its products, procedures, manufacturing and production methods, or business practices and thus did not explain how they are unique or why specialized knowledge is required to work with them. Likewise, although the Petitioner claimed that the Beneficiary has "an advanced level of sophistication" of its organization's products and methodology, it did not distinguish its products and methodology from what is common within the automotive parts industry or explain how the Beneficiary's knowledge is more developed in comparison to other company employees.

As supporting evidence, the Petitioner provided copies of presentation slides, indicating that the Beneficiary created the presentation to facilitate the dissemination of information about the company's "change and communications measures" and means of implementing new strategy and "way of working" to company employees on a global scale. The Petitioner also provided slides pertaining to in-person and virtual workshops as further evidence of initiatives advanced by the Beneficiary. The Petitioner did not elaborate on the substance of its communications, strategy, or "way of working" clarifying why specialized knowledge was required to spearhead these corporate initiatives. Further, the Petitioner did it discuss how and when the Beneficiary gained the knowledge that is claimed to be specialized.

In a request for evidence (RFE), the Director found that the Petitioner did not identify any of the employing organization's products or services or the processes and procedures that were involved in the Beneficiary's assigned job duties and required specialized knowledge. The Director also noted that the Petitioner did not define the Beneficiary's knowledge as either "special" or "advanced," state how the Beneficiary gained that, or distinguish the Beneficiary's knowledge from that of others who

are similarly employed within the employer or within the industry. The Director therefore instructed the Petitioner to address these evidentiary deficiencies.

The Petitioner's response includes a statement from [redacted] the foreign entity's head of corporate communications, who stated that the Beneficiary "built up a unique network to important leaders" at its foreign headquarters and has knowledge that is "advanced and specialized" with respect to the company's strategy, communications, and decision-making processes. [redacted] did not point to specific elements of the organization's strategy, communications, or decision-making processes to explain how they are uncommon within the industry or why "advanced and specialized knowledge" of these components was necessary for the Beneficiary to achieve her primary objective of designing the annual executive meetings where executives come together to "align on activities to achieve the company's strategic goals." [redacted] also did not establish a causal relationship between building a network of "important leaders" at the foreign entity and gaining specialized knowledge.

[redacted] also claimed that the Beneficiary spearheaded two key projects, one of which involved designing "a methodology" and "communication documents" for the purpose of communicating "the strategy" and ensuring that the company is globally aligned with respect to the "strategic goals" set by the headquarters in Germany. [redacted] did not, however, describe the methodology or the contents of the "communication documents" to substantiate the claim that specialized knowledge was required for their creation and development. [redacted] stated that the objective of the other key project was to integrate the foreign entity with the U.S. entity it acquired in a corporate merger by creating "new combined corporate values" that would be commonly shared by the entire multinational organization. He explained that in order to meet this objective the Beneficiary created "processes and methodologies to change culture" and "wrote documents such as presentations, key messages, [and] talking points" to be used by management to convey "the new behavior" to their subordinates. However [redacted] did not describe the processes and methodologies that the Beneficiary created; nor did he explain why specialized knowledge was required either to create those processes and methodologies or to write the documents that would be used to inform and promote "the new behavior" among the company's workforce.

Further [redacted] claimed that the Beneficiary gained a "deep understanding" of company strategy, structure, and processes and was able to forge a "strong network of leaders and communications representatives." However, it is unclear that a "deep understanding" is synonymous with specialized knowledge. And although [redacted] stressed the value of the Beneficiary's work to the organization, he did not specify when and how the Beneficiary acquired the knowledge that is claimed to be specialized. Merely stating that the Beneficiary's "education as an organization development consultant" resulted in specialized knowledge in the set-up of "change projects" is not sufficient to convey a meaningful understanding of the path to acquiring the specialized knowledge that the Beneficiary is claimed to possess.

In addition, the Petitioner provided a statement from its vice president of organization development, [redacted] who similarly claimed that the Beneficiary possesses "advanced and specialized knowledge" with respect to the foreign entity's "top management" and leaders, the company's culture, and the style of communicating and decision-making within the organization. However [redacted] did not provide further clarifying information as to the nature of the Beneficiary's claimed specialized knowledge or the timeline explaining when and how the knowledge was gained. Further, because the

Petitioner did not describe a progression in the Beneficiary's knowledge during her employment abroad, it is unclear how her education and experience with the foreign entity resulted in the Beneficiary attaining a level of knowledge that is claimed to be specialized.

On appeal, the Petitioner contends that because of the complexity of its multinational organization, it prioritizes providing its employees with "consistent guidance and implementation of its strategy" to ensure "a cohesive corporate culture" within the context of a merged organization. The Petitioner stresses the Beneficiary's "integral" role in creating processes and methodologies that will provide "consistent guidance" on how to communicate and train employees to implement the organization's shared "strategic goals." The Petitioner claims that the Beneficiary's knowledge is specialized because it is distinct from the knowledge of others in the organization and in the field and cannot be easily transferred, highlighting the Beneficiary's "extended practice and routine exposure to the proprietary management strategies and processes . . . as well as the company's communication and decision-making methodologies," which the Petitioner claims resulted in advanced knowledge in the organization's "processes, techniques, and methodologies." However, the Petitioner does not describe its "proprietary management strategies and processes," explain why only someone with specialized knowledge can understand these strategies and processes, or establish that such understanding leads to specialized knowledge of the company's proprietary "processes, techniques, and methodologies."

The Petitioner also has not answered the critical question of how and when the Beneficiary gained the knowledge that is claimed to be specialized. The Petitioner has stated that the Beneficiary was employed by the foreign entity from May 2015 to February 2017, thereby indicating that the specialized knowledge was gained during that 22-month time period. However, the Petitioner does not outline a progression of knowledge from the time of the Beneficiary's hiring to the point she purportedly attained knowledge that is claimed to be specialized knowledge, nor does it specify the length of time it took the Beneficiary to gain that knowledge. Rather, the Petitioner broadly states that the Beneficiary had "extended practice and routine exposure to [its] proprietary management strategies and processes."

Further, the Petitioner asserts that the Beneficiary possesses characteristics of a specialized knowledge employee consistent with those cited USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), https://www.uscis.gov/laws/policy-memoranda. Namely, the Petitioner contends that the Beneficiary possesses knowledge that is of significant value to its organization, is beneficial to the Petitioner's competitiveness in the marketplace, can only be gained through experience with its organization, and cannot be easily taught or transferred. However, these characteristics alone are not probative of the Beneficiary's specialized knowledge. As noted in the memorandum, the "characteristics" listed by the Petitioner are only "factors that USCIS may consider when determining whether a beneficiary's knowledge is specialized." *Id.* The memorandum emphasizes that "ultimately, it is the weight and type of evidence that establishes whether the beneficiary possesses specialized knowledge." *Id.* at 13.

Although the Petitioner claims that the Beneficiary possesses knowledge that is both "special" and "advanced" because it is proprietary and not widely held throughout the organization, it does not specifically describe the organization's products, services, or techniques to support the claim that the Beneficiary's knowledge is "special," nor does it describe its specific processes and procedures to support the claim that her knowledge is "advanced." And despite highlighting the Beneficiary's

educational credentials and "extended practice and routine exposure to [its] proprietary management strategies and processes," the Petitioner does not outline a path for gaining specialized knowledge within its organization with respect to those strategies and processes. As such, the Petitioner has not established that the Beneficiary's formal education and experience with the foreign entity resulted in knowledge that is either special or advanced.

In sum, despite claiming that the Beneficiary possesses knowledge that is both "special" and "advanced," the Petitioner does not support these claims with clarification as to why specialized knowledge is required to perform her assigned job duties, nor does it explain precisely how and when the Beneficiary attained knowledge that is claimed to be specialized. Accordingly, in light of the evidentiary deficiencies described herein, the Petitioner has not established that the Beneficiary possesses specialized knowledge or that she was employed abroad and would be employed in the United States in a specialized knowledge capacity.

ORDER: The appeal will be dismissed.