U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36473684

Date: JAN. 23, 2025

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1B Specialized Knowledge Worker)

The Petitioner, describing itself as a media news rating company, seeks to temporarily employ the Beneficiary as a data manager 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 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 California Service Center denied the petition on multiple grounds. The Director concluded the Petitioner did not establish that: 1) it had a qualifying relationship with the Beneficiary's asserted foreign employer, 2) the Beneficiary was employed fulltime by a qualifying organization for one continuous year in the three preceding the date the petition was filed, 3) the Beneficiary was employed abroad in a position that was managerial, executive, or involving specialized knowledge, 4) the Beneficiary was qualified to perform the intended services in the United States, and 5) the Beneficiary would be employed in the United States in a position involving specialized knowledge. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal as the Petitioner did not establish that the Beneficiary would be employed in the United States in a position involving specialized knowledge. Since this issue is dispositive, we decline to reach and hereby reserve the Petitioner's arguments with respect to the Director's other grounds for denial. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

I. LEGAL FRAMEWORK

To establish eligibility for the L-1B nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for

admission into the United States. Section 101(a)(15)(L) of the Act. 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 thereof in a specialized knowledge capacity. *Id.* 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).

III. UNITED STATES EMPLOYMENT IN A SPECIALIZED KNOWLEDGE CAPACITY

The sole issue we will analyze is whether the Petitioner established that the Beneficiary would be employed in the United States in a position involving specialized knowledge.

Under the statute, a beneficiary is considered 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, 8 U.S.C. § 1184(c)(2)(B). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong, or both prongs, of the statutory definition of specialized knowledge. Specialized knowledge is also defined as special 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).

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 an employee is able to gain specialized knowledge within the organization and explain how and when the individual beneficiary gained such knowledge.

The Petitioner indicated that as a data manager the Beneficiary was involved in "developing the company's news rating data, product, and service" and that "he understands the building blocks of [its] proprietary software and databases." More specifically, the Petitioner pointed to a spreadsheet titled the "Source Hub Master Spreadsheet," indicating that the Beneficiary built and maintained this document and that he "personally put his eyes on" each of the over 20,000 news sources and websites, determining which were "rateable [sic] under our system." The Petitioner further stated that the Beneficiary worked, and would work, with its U.S. based employees "by following their leads and hunting down new potential websites to rate."

In the denial decision, the Director reasoned that the Beneficiary's provided duty description lacked sufficient detail and included little insight into the type of specialized knowledge he would utilize while performing his daily tasks. The Director further indicated that the Petitioner did not provide sufficient documentary evidence to show how the Beneficiary obtained his claimed specialized knowledge to perform the duties of the U.S. position, such as how knowledge of the company's claimed proprietary processes, procedures, and methodologies is typically obtained by its employees, how it long it takes to

acquire this knowledge, and why it is considers this knowledge to be special or advanced. In addition, the Director stated that a determination as to whether the Beneficiary's knowledge was special or advanced inherently required a comprehensive comparison of him against others, including those similarly employed in both the company and industry to demonstrate that his knowledge was greatly developed or further along in progress than his colleagues within the company or distinct and uncommon within the industry. The Director concluded that the Petitioner did not provide sufficient comparisons of the Beneficiary against his colleagues both within and outside the company, noting that him holding knowledge of the company's proprietary information was not alone sufficient to establish it as special or advanced.

On appeal, the Petitioner states only that the Director erred in concluding that the Beneficiary's U.S. position would not involve specialized knowledge. The Petitioner provides no further reasoning behind this contention and does not articulate with specificity how the Director erred in this determination.[1] As such, we adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted"). As discussed by the Director, a determination as to whether the Beneficiary's U.S. position would be special or advanced inherently requires a comprehensive comparison of him against others, including those similarly employed in both the company and industry to demonstrate that their knowledge is distinct and uncommon within the industry or greatly developed[2] and/or further along in progress than his colleagues within the company.[3] Here, the Petitioner did not provide sufficient comparisons of the Beneficiary's knowledge, experience, and training against that of his colleagues, or those similarly placed in the industry, and it did not articulate with specificity or supplement the record to demonstrate that the conclusion of the Director was inconsistent with law or policy.

ORDER: The appeal is dismissed.

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[1] We note that the Petitioner is required on appeal to *specifically identify* [emphasis added] any erroneous conclusion of law or statement of fact in the unfavorable decision. 8 C.F.R. § 103.3(a)(1)(v).

[2] Determining whether a beneficiary had "special knowledge" requires review of a given beneficiary's knowledge of how the petitioning organization manufactures, produces, or develops its products, services, research, equipment, techniques, management, or other interests. Because "special knowledge" concerns knowledge of the petitioning organization's products or services and its application in international markets, a petitioner may meet its burden through evidence that the beneficiary had knowledge that was distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry. Knowledge that is commonly held throughout a petitioner's industry or that can be easily imparted from one person to another is not considered special knowledge. *See generally* 2 *USCIS Policy Manual* L.4, https://www.uscis.gov/policymanual.

[3] Determinations concerning "advanced knowledge" require review of a beneficiary's knowledge of the petitioning organization's processes and procedures. A petitioner may meet its burden through evidence that a given beneficiary has knowledge of or 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. Also, as with special knowledge, the petitioner ordinarily must demonstrate that a beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. *See generally* 2 *USCIS Policy Manual* L.4, https://www.uscis.gov/policymanual.