U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF G-A-T- CORP.

DATE: JULY 9, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner, a packaging material printing company, seeks to temporarily employ the Beneficiary as managing director of its new office[1] under the L-1A 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-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 Petitioner did not establish that the Beneficiary was employed abroad in a managerial or executive capacity or that she had been employed abroad for one continuous year in the three preceding the date the petition was filed. The Petitioner appealed the Director's decision and we dismissed the appeal.[2]

The matter is now before us again on a motion to reconsider. On motion, the Petitioner states that our decision is "factually incorrect and inconsistent in many ways." The Petitioner asserts that we dismissed the appeal in error by basing our decision on the lack of detailed foreign subordinate duty descriptions, noting that this evidence was not requested by the Director in the request for evidence (RFE).

Upon review, we will deny the motion to reconsider.

I. MOTION REQUIREMENTS

A motion to reconsider is based on legal grounds and must (1) state the reasons for reconsideration; (2) be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or policy; and (3) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

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[1] The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.

[2] We did withdraw the Director's conclusion that the Petitioner did not establish that the Beneficiary was employed abroad for one continuous year in the three preceding the date the petition was filed.

II. ANALYSIS

In dismissing the appeal, we pointed to the Beneficiary's foreign duty description and concluded that it did not provide sufficient detail or indicate how much time the Beneficiary devoted to each of her asserted tasks. We determined that the Beneficiary's duties included non-qualifying operational duties and stated that the Petitioner did not provide details as to her day-to-day managerial and executive level tasks. In addition, we stated that the Petitioner did not submit supporting documentation to substantiate the Beneficiary's claimed foreign subordinates. We also determined that the duties of the Beneficiary's subordinates were not sufficient to demonstrate that they acted in managerial or professional capacities as asserted.

On motion, the Petitioner states that our previous decision was "factually incorrect" and "inconsistent in many ways," but does not articulate why or how it is factually incorrect or inconsistent. The Petitioner points only to our focus on the duties of the Beneficiary's subordinates and asserts that the Director violated its due process by not requesting "detailed duties" in the RFE.

The Petitioner only addresses one basis of our dismissal in its motion, namely the duties of the Beneficiary's asserted foreign subordinates. Our prior decision also focused on the Beneficiary's foreign duty description and we concluded that the Petitioner did not provide sufficient detail regarding her day-to-day managerial or executive-level tasks abroad or indicate how much time she devoted to each of her asserted tasks. We also stated that the Petitioner listed several non-qualifying operational duties in the Beneficiary's duty description. In addition, we pointed out that the Petitioner did not submit supporting documentation to substantiate the Beneficiary's claimed foreign subordinates. However, the Petitioner does not address these issues with reasons for reconsideration or cite to pertinent precedent decisions to establish that these determinations were based on an incorrect application of law or policy. 8 C.F.R. § 103.5(a)(3). The Petitioner only vaguely indicates that our decision was "factually incorrect" and "inconsistent in many ways," but it does not indicate why or how with respect to our various reasons for dismissal. Accordingly, we conclude that the Petitioner does not meet the requirements of a motion to reconsider.[3]

[3] In the RFE, the Director requested that the Petitioner submit an organizational chart including the names and job titles of her subordinates, along with a summary of duties and their education. We note that it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). We commonly analyze the duties of a beneficiary's subordinates to determine whether these employees act as supervisors, managers, or professionals and assess whether they primarily relieve a beneficiary from performing non-qualifying operational duties. As such, we do not conclude that the Director erred by not specifically requesting "detailed" foreign subordinate duties in the RFE or that our decision was mistaken in finding that the duties of the Beneficiary's asserted foreign subordinates were insufficient to demonstrate their claimed roles.

III. CONCLUSION

For the reasons discussed, the Petitioner has not shown proper cause for reconsidering the prior decision.

ORDER: The motion to reconsider is denied.

Cite as *Matter of G-A-T- Corp.*, ID# 1374831 (AAO July 9, 2018)