U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF E-US, INC.

DATE: JULY 23, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a pharmaceutical manufacturing business focused on [redacted] health products, seeks to continue the Beneficiary's temporary employment as its chief operating officer under the L-1A nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) § 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 record did not establish, as required, that: (1) the Beneficiary was employed abroad in a managerial or executive capacity prior to his transfer to the United States; and (2) the Petitioner will employ the Beneficiary in the United States in a managerial or executive capacity under the extended petition.

On appeal, the Petitioner asserts that the Director failed to give due consideration to its evidence and did not apply the preponderance of the evidence standard to the facts presented.

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

We agree with the Petitioner's contention that it met its burden to establish by a preponderance of the evidence that the Beneficiary was employed abroad in a managerial capacity as defined at section 101(a)(44)(A) of the Act. The Petitioner provided detailed information in response to the request for evidence sufficient to demonstrate that the Beneficiary was primarily responsible for managing two fully-staffed departments (marketing and operations) of the Petitioner's foreign affiliate, that he supervised a staff of professional employees, and that he had the authority to make personnel decisions and exercise discretion over the day-to-day operations of these two departments. The Petitioner provided sufficient information regarding the roles subordinate to the Beneficiary to demonstrate that he was relieved from significant involvement in non-managerial functions.

With respect to the U.S. assignment, the Petitioner has established that the Beneficiary, as chief operating officer for the group's [redacted] health division, will direct business transformation, global pricing, and corporate governance activities on a worldwide basis and will be primarily focused on the policies and goals of the company in an executive capacity. *See* section 101(a)(44)(B) of the Act. The

Petitioner's claim is supported by evidence that the Beneficiary chairs the group's Global Executive Pricing Committee and is a member of a number of other executive leadership teams. Further, the Petitioner established that the Beneficiary reports only to the company CEO and an executive vice president, and is supported by a global pricing team, business transformation team, and cross-functional project teams who perform the non-executive tasks associated with the operational initiatives that are under his direction.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of E-US, Inc.*, ID# 5056745 (AAO July 23, 2019)