U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF Q-T-, INC.

DATE: JULY 26, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a wireless telecommunications company, seeks to continue the Beneficiary's temporary employment 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 record did not establish, as required, that the Beneficiary would be employed in a managerial or executive capacity in the United States or that he was employed abroad in a managerial or executive capacity.

On appeal, the Petitioner contends that the Beneficiary was primarily engaged in managerial responsibilities abroad and he will be performing primarily managerial duties in the United States.

Upon *de novo* review, we conclude that the record now contains sufficient evidence to overcome the Director's denial. The submitted evidence reflects that the Beneficiary will more likely than not primarily perform managerial duties under the extended petition. Although the Petitioner submits duties and evidence indicating that the Beneficiary would likely perform some non-qualifying operational duties, such as those related to software development, it also provided credible documentary evidence reflecting that he would be primarily relieved from non-qualifying duties by the professional members of the software team he will direct. The Petitioner submits credible evidence that the Beneficiary will have discretionary authority over his team and its professional subordinates. Therefore, the evidence demonstrates that the Beneficiary will more likely than not act in a managerial capacity in the United States.

For similar reasons, we also conclude that the Beneficiary acted in a managerial capacity abroad. Similar to the Beneficiary's U.S. employment, the evidence demonstrates that the Beneficiary acted as a senior lead engineer directing various teams of professionals assigned to develop technology for the foreign employer. Again, although duties and evidence indicate that the Beneficiary performed some non-qualifying operational duties abroad specific to software development, it also provided credible documentary evidence reflecting that he was primarily relieved from non-qualifying duties by the professional members of the software teams he directed.

Therefore, the totality of the evidence establishes that the Beneficiary more likely than not acted in a managerial capacity abroad and he will act in a managerial capacity in the United States under the extended petition.

ORDER: The appeal is sustained.

Cite as *Matter of Q-T-, Inc.*, ID# 1437020 (AAO July 26, 2018)