U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF B-A-S- INC.

DATE: JULY 29, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a data analytics solutions provider, seeks to extend the Beneficiary's temporary employment as its "Director - Supply Chain Solutions" 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 the Petitioner would employ the Beneficiary in a managerial or executive capacity under the extended petition.

On appeal, the Petitioner asserts that the Director overlooked and misunderstood probative evidence, which led to both factual errors in the decision and a conclusion that is contrary to the facts presented.

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

The denial decision was based in significant part on a finding that there were material inconsistencies in the record with respect to the number of U.S. employees working for the Petitioner and the number of employees reporting to the Beneficiary. We agree with the Petitioner that this conclusion appears to have been based on an incomplete review of the record. The Petitioner has consistently claimed that it has eight U.S. employees, that the Beneficiary has one U.S.-based subordinate, and that he supervises a team of three managers and twelve professionals who work for the Petitioner's Indian parent company. The employment, duties, and qualifications of the Beneficiary's entire team are well documented in the record. Although the Director declined to consider the Beneficiary's supervision of the India-based staff, the record supports a conclusion that the Petitioner's operations are closely tied with those of its foreign parent company based on an on-site/offshore model and that the foreign staff work to deliver projects and solutions to U.S.-based customers under the Beneficiary's management.

Further, the Petitioner has demonstrated by a preponderance of the evidence that the Beneficiary holds a senior management role in which he reports directly to its CEO. The record substantiates that the Beneficiary will continue to manage a component of the company (the supply chain solutions business

unit), oversee the work of subordinate supervisors and professionals, exercise authority over personnel actions, and hold decision-making authority over the day-to-day operations of the business unit. The Petitioner has also demonstrated that he has sufficient staff available to relieve him from significant involvement in day-to-day operational tasks, such that his primary duties will be at the senior management level, and consistent with the statutory definition of managerial capacity at section 101(a)(44)(A) of the Act.

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. The Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of B-A-S-, Inc.*, ID# 5130320 (AAO July 29, 2019)