U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF L-N- CORP.

DATE: JUNE 2, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a financial services business, seeks to employ the Beneficiary as a senior analyst, application developer. It requests classification of the Beneficiary as a professional under the third preference immigrant classification. *See* Immigration and Nationality Act (the Act), section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner had not established that the Beneficiary possessed the education and employment experience required by regulations and by the job offer.

On appeal, the Petitioner asserts that it documented the Beneficiary's academic and experience qualifications for the offered job.

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

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer must obtain an approved labor certification from the U.S. Department of Labor (DOL).[1] *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, the DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. Section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer may file an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national may apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

[1] The date the labor certification is filed is called the "priority date." *See* 8 C.F.R. § 204.5(d).

II. ANALYSIS

A. The Beneficiary's Education

In order to be eligible for classification as a professional, the regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) states that the Petitioner must establish that the beneficiary "holds a United States baccalaureate degree or a foreign equivalent degree. . . ." A beneficiary must also meet all of the requirements of the offered position set forth on the labor certification. 8 C.F.R. § 103.2(b)(l), (12). *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg. Comm. 1977); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). Here, the labor certification requires a bachelor's or foreign equivalent degree in computer science, information systems, or related field.

On the labor certification, the Beneficiary listed his education as a bachelor's degree in computer science from [redacted] in [redacted] India, completed in 2012. The Petitioner submitted a copy of the Beneficiary's academic transcripts and a diploma issued to the Beneficiary on April 28, 2012, by [redacted] showing that the university conferred on the Beneficiary a master of science in computer science degree. The Petitioner submitted a credentials evaluation which concluded that the Beneficiary possessed "the equivalent of a Bachelor of Science degree in Computer Science, from an accredited institution of higher education in the United States."

The Director acknowledged that the Petitioner had submitted evidence of the Beneficiary's master's degree, but stated that the record did not contain copies of the diploma and academic transcripts documenting the Beneficiary's Indian bachelor's degree. The Director concluded that a "foreign master's degree may be found not equal to a U.S. Bachelor's without confirmation of the beneficiary's previous education" and denied the petition.

On appeal, the Petitioner submits a copy of the Beneficiary's diploma, provisional certificate, and consolidated marks memorandum from [redacted] showing that the university conferred on the Beneficiary a three-year bachelor of science degree. The Petitioner also submits an additional education evaluation and emphasizes that the Beneficiary's master's degree "has been evaluated to be equivalent to a bachelor's degree from an accredited institution of higher education in the United States." The Petitioner noted that the evaluator relied, in part, on the Electronic Database for Global Education (EDGE) created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). EDGE provides that a Master of Science degree in India "represents the attainment of a level of education comparable to a bachelor's degree in the United States."[2] The Petitioner therefore asserts that the Beneficiary has the degree required by the labor certification and for classification as a professional. We agree.

In this case, the record demonstrates that the Beneficiary holds an Indian master's degree in the field of computer science, which both the Petitioner's evaluations and EDGE state is equivalent to a U.S. bachelor's degree in computer science. Therefore, we find this degree to meet the requirements of the

[2] http://edge.aacrao.org/country/credential/master-of-arts-or-commerce?cid=single (last visited May 16, 2017).

regulations and of the labor certification. Accordingly, we withdraw this portion of the Director's decision.

B. The Beneficiary's Experience

In addition to meeting the academic requirements for classification as a professional, a beneficiary must also possess the experience required by the labor certification by the priority date. *See* 8 C.F.R. § 103.2(b)(l), (12), *see also Matter of Wing's Tea House*, 16 I&N Dec. at 159, *Matter of Katigbak*, 14 I&N Dec. at 49. In this case, in addition to the required bachelor's degree, the terms of the labor certification also require 60 months of progressively responsible experience with Microsoft SQL Server, SSIS, WSDL, SSRS, and working within a production environment.

The record establishes that the Beneficiary has approximately nine years of qualifying experience gained between November 5, 2005, and November 7, 2014. The Director's RFE stated that "the regulations for this visa classification require at least sixty (60) months or five (5) years of progressive post-baccalaureate experience in the specialty." The Director repeated this statement in his decision and concluded that the Petitioner had not established that the Beneficiary "met the minimum requirements of the labor certification." Specifically, the Director stated that since any work experience performed before April 2012 when the Beneficiary was awarded the equivalent of a U.S. bachelor's degree "was pre-baccalaureate, [and] cannot be counted as qualifying post-baccalaureate experience under the regulations at 8 C.F.R. §§ 204.5(K)(2) and 204.5(K)(3)(i)(B)."

However, the regulations cited by the Director pertain to petitions for classification as a member of the professions holding an advanced degree, while the current petition seeks classification as a professional. Neither the current labor certification nor the statutes and regulations governing classification as a professional specify that the Beneficiary's employment experience must be post-baccalaureate. We find that the Beneficiary's work experience satisfies the requirements of the pertinent statutes and regulations, as well as the requirements of the labor certification. Accordingly, we withdraw this portion of the Director's decision.

III. CONCLUSION

The Beneficiary possesses the foreign degree equivalent to a U.S. bachelor's degree and over 60 months of experience as required by the labor certification. Accordingly, the Petitioner has established that the Beneficiary meets the minimum education and experience requirements of the labor certification and for classification as a professional.

ORDER: The appeal is sustained.

Cite as *Matter of L-N- Corp.*, ID# 421348 (AAO June 2, 2017)