U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 17302927

Date: JUN. 14, 2021

Appeal of California Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, a software as a service (SaaS) provider, seeks to amend the Beneficiary's nonimmigrant status[1] and continue his temporary employment in the position of Manager, Quality Engineering, 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 work temporarily in the United States 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 capacity involving specialized knowledge and that he would be employed in a managerial capacity under the amended petition. The matter is now before us on appeal.

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon de *novo* review, we conclude that the Petitioner has met this burden. Accordingly, we will sustain the appeal.

First, we find sufficient evidence to establish that the Beneficiary was employed abroad in a capacity that involved specialized knowledge. A beneficiary is considered to be serving in a capacity involving specialized knowledge with respect to a company if the beneficiary has special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B).

The record reflects that, prior to his transfer to the United States in L-1B status in 2018, the Beneficiary had more than four years of experience as a lead quality assurance (QA) engineer with the Petitioner's Indian subsidiary, where he worked exclusively on the company's proprietary [redacted] sales compensation analytics product. The evidence indicates that, in this position, he led a seven-member team, took ownership of [redacted]'s development, QA, and deployment activities, and was responsible for providing mentorship on existing and new product features. The Director determined that the fact that the Beneficiary was hired for a "lead" position without any prior knowledge or experience with the

[1] The record reflects that the Beneficiary was initially admitted to the United States in L-1B status as a "specialized knowledge" employee under the Petitioner's approved blanket L petition in 2018.

organization suggests that the position involves only "general system analyst knowledge common within the field."

The Petitioner emphasizes, however, that the Director overlooked evidence that the Beneficiary was one of the first engineers at the company assigned to work on the proprietary [redacted] product. It further explains that the Beneficiary was required to perform advanced duties as a lead engineer and subject matter expert for [redacted] that resulted in him gaining special knowledge of the product (including its core architecture and components) that is not possessed by others within the company who have not worked on the product since its initial development and release, and could not be readily transferred to those with only general software development experience.

While the record reflects that the petitioning group's proprietary product suite is built, in part, on big data technologies that are used by other companies in the software industry, the Petitioner provided sufficient evidence to differentiate the Beneficiary's knowledge of its proprietary products and technologies from general knowledge possessed in his field, and described how he acquired such knowledge by performing duties related to the initial and ongoing product development of [redacted] Accordingly, we conclude that it is more likely than not that the Beneficiary was employed abroad in a capacity that involved specialized knowledge of the company's [redacted] product.

With respect to the Beneficiary's new U.S. position, the Petitioner has consistently stated that his role as Manager, Quality Engineering, will be in a managerial capacity as defined at section 101(a)(44)(A) of the Act. The Petitioner indicates that he will have responsibility for managing a team of nine professional lead, senior, and associate quality assurance engineers as well as establishing and ensuring the implementation of quality assurance processes and practices across the company's quality engineering organization.

To be eligible for L-1A nonimmigrant visa classification as a manager, the Petitioner must show that the Beneficiary will perform the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(A)(i)-(iv) of the Act. If the Petitioner establishes that the offered position meets all elements set forth in the statutory definition, the Petitioner must prove that the Beneficiary will be *primarily* engaged in managerial duties, as opposed to ordinary operational activities alongside the Petitioner's other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006).

In determining that the Petitioner did not meet its burden to establish that the offered position is primarily managerial in nature, the Director's analysis was limited to a brief discussion of a detailed job description provided in response to a request for evidence. Specifically, the Director observed that, based on that description, "it appears that the beneficiary will spend only 25% of his time 'manag[ing] a team of Software Development engineers'" while the remaining 75% of the time "appears to be doing the day-to-day operational tasks of the business." On appeal, the Petitioner maintains that while it stated that the Beneficiary would spend 25% of his time specifically on management of his professional subordinates, "this does not mean that the remaining 75% of his time will be spent 'doing the day-to-day operational tasks of the business.'" The Petitioner emphasizes that the Director improperly dismissed most of the Beneficiary's duties as non-managerial without explaining her reasoning.

The Petitioner maintains that, in addition to overseeing professional personnel, the evidence reflects that the Beneficiary will manage the quality engineering function for the company products that fall within his area of responsibility. The Petitioner specifically points to higher level managerial duties that appear throughout the company's detailed breakdown of the offered position and asserts that the duties, when properly considered as a whole, are primarily managerial.

Upon *de novo* review of the evidence relating to the offered U.S. position, we agree with the Petitioner's assertion that the Beneficiary's proposed job duties meet all elements of the statutory definition of managerial capacity and are primarily consistent with the high-level responsibilities set forth in that definition; the job description does not reflect that he would be significantly engaged in the "day-to-day operational tasks" of the business. In addition to supervising subordinate professional personnel and exercising authority to make or recommend personnel actions, the record reflects that the Beneficiary would be responsible for managing quality engineering processes for several of the company's products, that non-qualifying duties associated with carrying out those processes are performed by lower-level employees, and that he would be exercising discretion over the day-to-day operations of the activity for which he has authority. Accordingly, we conclude that the Petitioner met its burden to establish the Beneficiary would, more likely than not, be employed in a managerial capacity.

III. CONCLUSION

For the reasons discussed, the Petitioner has demonstrated, by a preponderance of the evidence, that the Beneficiary was employed abroad in a position involving specialized knowledge, and that he would be employed in a managerial capacity in the United States.

ORDER: The appeal is sustained.