U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF P-T-&A-S- INC.

DATE: MAR. 13, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a provider of tax preparation and accounting services, seeks to employ the Beneficiary as an accountant. It requests her classification as a professional under the third-preference, immigrant category. *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, "EB-3" category allows a U.S. business to sponsor a foreign national with a bachelor's degree for lawful permanent resident status.

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not establish the Beneficiary's possession of a U.S. bachelor's degree or a foreign equivalent degree as required for the offered position and the requested classification.

On appeal, the Petitioner submits additional evidence and asserts that the Beneficiary's certificates from [redacted] qualifies her for the position and the classification.

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

I. THE EMPLOYMENT-BASED IMMIGRATION PROCESS

Employment-based immigration generally follows a three-step process. First, an employer seeking to permanently employ a foreign national in the United States must obtain U.S. Department of Labor (DOL) certification of the job opportunity. *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). The DOL must determine whether the country has able, willing, qualified, and available workers for an offered position, and whether employment of a foreign national would hurt the wages and working conditions of U.S. workers with similar jobs. *Id.* If the DOL certifies a position, an employer must next submit the certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. If USCIS approves a petition, a foreign national may finally 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.

II. THE REQUIRED EDUCATION

As indicated above, for purposes of professional classification, a foreign national must have at least bachelor's degree. Section 203(b)(3)(A)(ii) of the Act. A bachelor's degree means "a United States baccalaureate degree or a foreign equivalent degree." 8 C.F.R. § 204.5(l)(3)(ii)(C). Evidence of a bachelor's degree must include "an official college or university record showing the date the baccalaureate degree was awarded and the area of concentration of study." *Id.*

A petitioner must also establish a beneficiary's possession, by a petition's priority date, of all DOL-certified job requirements of an offered position.[1] *Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Acting Reg'l Comm'r 1977). In evaluating a beneficiary's qualifications, USCIS must examine the job offer portion of an accompanying labor certification to determine the minimum requirements of an offered position. USCIS may neither ignore a certification term, nor impose additional requirements. *See, e.g., Madany v. Smith*, 696 F.2d 1008, 1015 (D.C. Cir. 1983) (holding that the "DOL bears the authority for setting the *content* of the labor certification") (emphasis in original).

Here, the accompanying labor certification states the minimum educational requirements of the offered position of accountant as a U.S. bachelor's degree or a foreign equivalent degree in accounting or business.[2] Instead of indicating "Associate's" degree or some "Other" educational credential, Part H.4 of the certification states a minimum requirement of a "Bachelor's" degree. In Part H.9, the Petitioner also indicated its acceptance of a foreign degree equivalent to a U.S. baccalaureate degree. In Part H.8, the Petitioner stated that it would not accept an alternate combination of education and experience.

The Beneficiary attested to her receipt, before the petition's priority date, of a bachelor's degree in business and accounting from [redacted]. The Petitioner submitted copies of [redacted] certificates in the Beneficiary's name, including final examination and membership certificates. The record also contains copies of a diploma and marks statements from an Indian university. The university materials indicate that, before earning the [redacted] certificates, the Beneficiary obtained a three-year bachelor of commerce degree.

The Petitioner submitted two, independent evaluations of the Beneficiary's foreign educational credentials. One evaluation concludes that the Beneficiary's bachelor's degree equates to three years of U.S. university education, and that her [redacted] certificates equate to a U.S. bachelor's degree in business and accounting. The other evaluation describes her university and [redacted] credentials together as equivalent to a U.S. bachelor's degree in accounting.

---

[1] This petition's priority date is December 15, 2016, the date the DOL received the accompanying labor certification application for processing. *See* 8 C.F.R. § 204.5(d) (explaining how to determine a petition's priority date).

[2] The certification also states that the position requires at least three months of experience in the job offered. The Beneficiary's qualifying experience, however, is not at issue.

The evaluations do not conclude, nor does the Petitioner assert, that the Beneficiary's three-year degree equates to a U.S. bachelor's degree. *See Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977) (finding that a U.S. baccalaureate degree usually requires at least four years of college or university education). Rather, the Petitioner contends that the Beneficiary's certificates are equivalent to a U.S. bachelor's degree in a required field of study. Contrary to the requirements on the labor certification and 8 C.F.R. § 204.5(l)(3)(ii)(C), however, the record does not establish the certificates as a "degree" from a "college or university."

On appeal, the Petitioner notes that the Electronic Database for Global Education (EDGE), an online resource that federal courts have found to be a reliable source of foreign education equivalencies, considers certificates of final examination and membership to represent education comparable to a U.S. bachelor's degree.[3] The Petitioner asserts: "This recognition is materially and significantly relevant concerning discussion to demonstrate that it is not necessary that the beneficiary should have a degree awarded by a college or university." (emphasis in original).

We agree that EDGE and other evidence of record demonstrate that the Beneficiary's credential represents a level of education comparable to that of a U.S. bachelor's degree in a required field. As discussed above, however, the labor certification and the regulations require the Beneficiary to have a "degree" issued by a "college or university." EDGE's opinion neither establishes the certificates as degrees, nor as a college or university. EDGE's opinion therefore does not support the Beneficiary's qualifications for the offered position or the requested classification.

The Petitioner also provides an expert opinion stating that, contrary to the Director's decision is not merely "a professional industry association but a regulatory body established by [an] Act of the Parliament of India." Based on "the unique statutory position of " the Petitioner asserts that the institute is a "deemed university" and its certificates constitute a foreign degree equivalent to a U.S. baccalaureate. Contrary to the Petitioner's assertions, however, the act creating neither authorizes the institute to issue degrees, nor deems it to be a university. *See* The Chartered Accountants Act of 1949 (as amended), http:// (last visited Jan. 31, 2018). The act authorizes to offer academic courses and exams, but also describes the institute as separate from Indian universities. *See id.* at Ch. III, 15A (authorizing universities to teach the same subjects covered by as long as their academic awards are not identical or similar to the institute's). Moreover, Indian degrees may be granted only by universities, deemed universities, or institutions that Parliament specifically empowers to grant degrees. *See* The University Grants Commission Act of 1956 (as amended), Ch. IV, 22, https://www.ugc.ac.in/oldpdf/ugc_act.pdf (last visited Jan. 31, 2018). The record does not establish

[3] EDGE was created by the American Association of Collegiate Registrars and Admissions Officers. *See, e.g., Viraj, LLC v. U.S. Att'y Gen.*, 578 Fed. Appx. 907, 910 (11th Cir. 2014) (describing EDGE as "a respected source of information").

that [redacted] is a college or university or that [redacted] is authorized under Indian law to issue degrees. Accordingly, [redacted] is not an academic institution that can confer an actual degree with an official college or university record. *See Snapnames.com, Inc. v. Michael Chertoff*, 2006 WL 3491005 *11 (D. Ore. Nov. 30, 2006) (finding USCIS was justified in concluding that [redacted] membership was not a college or university "degree").[4]

III. CONCLUSION

Contrary to the requirements of the offered position and the requested classification, the record does not establish the Beneficiary's possession of a U.S. bachelor's degree or a foreign equivalent degree from a college or university. We will therefore affirm the Director's decision.

ORDER: The appeal is dismissed.

Cite as *Matter of P-T-&A-S- Inc.*, ID# 990740 (AAO Mar. 13, 2018)

[4] The Petitioner also submits copies of four USCIS decisions. None of the decisions are precedential. The decisions therefore do not bind us in this matter. *See* 8 C.F.R. § 103.10(b) (stating that only precedent decisions bind USCIS officers in proceedings involving the same issue).