U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30493938

Date: MAR. 21, 2024

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1B Specialized Knowledge Worker)

The Petitioner is an aviation maintenance and repair company that seeks to employ the Beneficiary temporarily under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Beneficiary possesses specialized knowledge and was employed abroad and would be employed in the United States in a specialized knowledge capacity. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To establish eligibility for the L-1B nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a specialized knowledge capacity. *Id.* The petitioner must also establish that the beneficiary's prior education, training, and employment qualify him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

II. ANALYSIS

The primary issue in this matter is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether he has been employed abroad and will be employed in the United States, in a specialized knowledge capacity.[1]

[1] The Petitioner does not claim that the Beneficiary was employed abroad in an executive or managerial capacity.

As a threshold issue, we must determine whether the Petitioner established that the Beneficiary possesses specialized knowledge. If the evidence is insufficient to establish that he possesses specialized knowledge, then we cannot conclude that the Beneficiary's past and intended future employment involve specialized knowledge.

A beneficiary is deemed to have specialized knowledge if they have: (1) a "special" knowledge of the petitioning organization's product and its application in international markets; or (2) an "advanced" level of knowledge of the processes and procedures of the petitioning organization. Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition.

As both "special" and "advanced" are relative terms, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others. With respect to either special or advanced knowledge, the petitioner ordinarily must demonstrate that the beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary's knowledge or expertise is special or advanced, and that the beneficiary's position requires such knowledge.

Special knowledge concerns knowledge of the petitioning organization's products or services and their application in international markets. To establish that a beneficiary has special knowledge, the petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry.

Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the petitioning entity may meet its burden through evidence that the beneficiary has knowledge of or an expertise in the organization's processes and procedures that is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether the beneficiary actually possesses specialized knowledge. We cannot make a factual determination regarding a given beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary's knowledge. The petitioner should also describe how such knowledge is typically gained within the organization and explain how and when the individual beneficiary gained such knowledge.

In the present matter, the Petitioner claims that the Beneficiary possesses specialized knowledge in aircraft flight controls rigging, six different aircraft systems, and aircraft adjustments and repairs. The Petitioner explained that the Beneficiary has acquired the knowledge that is claimed be specialized in

his 19 years of experience, although most of the experience appears to have been gained outside of the petitioning organization. However, the specific amount of time the Beneficiary spent working for the foreign entity cannot be ascertained because the record is inconsistent as to the employment start date. While the petition form and the Petitioner's job offer letter state that the Beneficiary started working for the foreign entity in May 2022, the Beneficiary's foreign personnel record states that his employment commenced in May 2021. Since the Petitioner must demonstrate that the Beneficiary was employed by the foreign entity in a specialized knowledge capacity for at least one year prior to this petition's filing, an inconsistency concerning the Beneficiary's dates of employment abroad is critical and must be resolved. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (stating that inconsistencies in the record must be resolved with independent, objective evidence).

Further, in pursuing its specialized knowledge claim the Petitioner ambiguously referred to the Beneficiary's knowledge of "our politics and company procedures," but it did not explain what is meant by "our politics" or specify its "company procedures." While knowledge of an organization's processes and procedures may be advanced, the Petitioner's broad reference does not identify its processes and procedures and therefore is not sufficient to support a claim that the Beneficiary's knowledge is advanced. *See* section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). The Petitioner also claims that specialized knowledge is required to work "in the aircraft maintenance industry" and states that the Beneficiary will require certain "tools and techniques" to perform his job. However, the Petitioner it did not specify its organization's tools and techniques, nor did it state that the Beneficiary would use tools and techniques that are specific to its organization. *See id.*

In a request for evidence (RFE), the Director instructed the Petitioner to state whether the Beneficiary's knowledge is special, thus involving knowledge of the petitioning organization's products or services and their application in international markets, or whether the knowledge is advanced, thus involving knowledge of the petitioning organization's processes and procedures, and to explain how the Beneficiary's knowledge is special or advance. The Director also asked the Petitioner to specify the minimum time required to obtain that knowledge and to state how it was obtained in terms of training and years of experience.

In response, the Petitioner focused on the requirements for becoming a skilled aviation mechanic in the United States, but it did not provide the requested information about its organization's services or its process and procedures, nor did it explain why specialized knowledge is required to assume the Beneficiary's positions abroad and in the United States. The Petitioner also discussed the required testing and associated costs of becoming an aviation mechanic and compared the roles, requirements, and responsibilities of licensed versus unlicensed aviation mechanics. However, the Petitioner did not discuss its organization specifically, nor did it distinguish the services its organization offers or the processes and procedures it uses from those of other providers of similar services. In fact, the Petitioner did not claim that the specialized knowledge that the Beneficiary is claimed to possess pertains specifically to its organization.

The Petitioner also listed the job duties of an aircraft mechanic leader and an aviation mechanic assistant but did not explain how this information is relevant to the Beneficiary, who was listed as "technicians leader" in the foreign entity's organizational chart and who is expected "to spend 65% of his time as technical instructor" and 35% "as a line maintenance technician" in his proposed position in the United States. We further note that the Petitioner initially stated that the Beneficiary's proposed

position would be that of aviation maintenance technician, but in response to the RFE the position title for the proposed position was listed as "Senior Aircraft Maintenance Specialist and Technical Instructor for Aircraft Systems." The Petitioner must clarify this apparent inconsistency if it chooses to further pursue this petition. *See Matter of Ho*, 19 I&N Dec. at 591-92.

The Petitioner also provided eight foreign certificates listing the Beneficiary's name as well as a course schedule, but these documents are in a foreign language – likely Spanish – and are not in compliance with 8 C.F.R. § 103.2(b)(3), which requires that any foreign document be accompanied by a full English language translation and a translator certification attesting to the completeness and accuracy of the translated material. Because the Petitioner did not submit a properly certified English language translation of the referenced documents, we cannot meaningfully determine whether they support the Petitioner's claims.

Although the initially submitted documents include flight certificates certifying the Beneficiary's completion of various courses, several of the courses are from 2015, 2017, and 2018 and therefore precede the Beneficiary's employment with the foreign entity. Other certificates, despite containing dates for courses that the Beneficiary took in 2022, were issued by a third-party training company and appear to have covered general subject matter that is not specific to the petitioning organization, but rather common to individuals employed in the aviation industry. The Petitioner did not explain if or how the Beneficiary's various certifications reflect his acquisition of special knowledge of the Petitioner's products or services or advanced knowledge of its processes and procedures.

On appeal, the Petitioner contends that the Beneficiary's proposed position requires "special skills" and highlights that the Beneficiary is bilingual, licensed in the United States and Costa Rica, and "qualified to . . . prepare and train new hires." However, highlighting skills that make the Beneficiary a valuable employee is not sufficient to establish that the Beneficiary has special knowledge of the Petitioner's product or service. Nor is the Petitioner's broad reference to the Beneficiary's understanding of its "politics and company procedures" sufficient to establish that the Beneficiary has an advanced knowledge of the Petitioner's processes and procedures. Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). Also, the Petitioner has not stated how and when the Beneficiary gained the knowledge that it claims is specialized or explained how such knowledge is typically gained within its organization.

Given the evidentiary deficiencies discussed above, the record does not show that the Beneficiary gained specialized knowledge of the petitioning organization's products or services or its processes and procedures. Accordingly, the Petitioner has not established that the Beneficiary possesses specialized knowledge or that he was employed abroad and would be employed in the United States in a specialized knowledge capacity.

ORDER: The appeal is dismissed.