U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30452459

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, a provider of aviation maintenance and repair services, seeks to temporarily employ the Beneficiary as an aviation maintenance technician under the L-1B 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-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with "specialized knowledge" to work temporarily in the United States.

The Director of the California Service Center denied the petition, concluding the Petitioner did not establish, as required, that the Beneficiary possesses specialized knowledge, that he was employed abroad in capacity that was managerial, executive, or involved specialized knowledge, and that he will be employed in a specialized knowledge capacity in the United States. The Director further determined the Petitioner did not establish that the Beneficiary's proposed assignment to unaffiliated employers' worksites would comply with the provisions of the L-1 Visa Reform Act, which prohibits L-1B nonimmigrants from providing "labor for hire."

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 their 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 them to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3)(iv).

II. BACKGROUND

The record reflects that the Petitioner was established in 2022 as the affiliate of a Costa Rican company. Both companies provide aircraft maintenance and repair services for airlines and other aviation industry customers, as well as "qualified manpower and training for new personnel in the area of Aircraft Maintenance."

The record reflects that the Petitioner's foreign affiliate has employed the Beneficiary in the position of aviation maintenance technician since May 2021.[1] The Petitioner states that the Beneficiary has been responsible for performing corrective and preventive maintenance services of Boeing 737, 767, and 787 and Airbus A320 and A330 aircraft, as well as analysis and interpretation of system failures, and implementation of system malfunction corrective procedures. The Petitioner indicates that the Beneficiary will perform similar duties as an aircraft maintenance technician in the United States and will also serve as a "technical instructor for aircraft systems," providing training on turbine engines and various aircraft systems.

The record reflects that the Beneficiary has an aircraft maintenance technician diploma from a Costa Rican institution, a Federal Aviation Administration (FAA) Airframe and Powerplant (A&P) mechanic license, and a comparable aircraft mechanic qualification from Costa Rica's federal aviation authority. The Petitioner provided evidence that he completed training specific to Boeing and Airbus aircraft systems in 2017, 2018 and 2019, prior to being hired by its foreign affiliate.

III. SPECIALIZED KNOWLEDGE

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 current foreign employment and proposed U.S. employment involve specialized knowledge.[2]

Here, the Director determined that the Petitioner did not show how the knowledge required to perform the duties of an aircraft maintenance technician within its group of companies is distinct or uncommon from the knowledge possessed by similarly employed workers in the same industry, or that such knowledge equates to specialized knowledge. In reaching this conclusion, the Director emphasized that the Petitioner did not specifically compare the Beneficiary's knowledge, training, and experience with that of other company employees and other individuals working in the same industry, and therefore did not meet its burden to establish that he has obtained knowledge that is either "special" or "advanced."

On appeal, the Petitioner emphasizes its need for the Beneficiary's knowledge, experience, and "special skills" in the United States. It provides a new letter from the foreign entity that expands on the previously submitted job description, resubmits evidence relating to the Beneficiary's industry-

[1] The Petitioner stated on the Form I-129, Petition for a Nonimmigrant Worker, and in a supporting statement that the Beneficiary joined the foreign affiliate in May 2022, and in its appeal states that he has been with its organization for "over three years." The record includes personnel records indicating the foreign entity hired the Beneficiary as an "aviation maintenance technician" in May 2021.

[2] The Petitioner does not claim that the Beneficiary has been employed abroad in an executive or managerial capacity.

related training and qualifications, and stresses that the Beneficiary's specialized knowledge and experience will be required to "train our new US mechanics in difficult task cards like aircraft systems adjustments and very critical aircraft repairs."

A. Evaluating Specialized Knowledge

Under the statute, a beneficiary is considered to have specialized knowledge if they have: (1) a "special" knowledge of the company product and its application in international markets; or (2) an "advanced" level of knowledge of the processes and procedures of the company. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition of specialized knowledge.

Specialized knowledge is also defined as knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures. 8 C.F.R. § 214.2(l)(1)(ii)(D).

Because 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 industry and cannot be readily 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 their position requires such knowledge.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether a given beneficiary possesses specialized knowledge. We cannot make a factual determination regarding a 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 an employee is able to acquire specialized knowledge within the organization and explain how and when the individual beneficiary gained such knowledge.

B. Special or Advanced Knowledge

Because "special knowledge" concerns knowledge of the petitioning organization's products or services and its application in international markets, a 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 same industry. With respect to "advanced knowledge," a petitioner may meet its burden through evidence that a given beneficiary has knowledge of or 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.

Here, the Petitioner initially stated that the Beneficiary "has demonstrated specialized knowledge in Aircraft Flight Controls Rigging, aircraft hydraulic systems, turbine engine systems aircraft system troubleshooting, adjustments and repairs for more than 17 years."[3] The Petitioner further stated that he "knows all our politics and company procedures in order to offer a high class of service to our new customers and he can transfer this knowledge to the new US employees." It asserted that "only specialized technicians" have the ability to troubleshoot and maintain all aircraft systems and equipment as well as the capacity to instruct others on aircraft systems operations.

The Petitioner's initial evidence included course outlines for four internal training courses (ranging in duration from 32 to 120 hours) relating to Boeing and Airbus commercial aircraft. The documents are primarily in Spanish and were not accompanied by English translations. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. *Id.* Regardless, the Petitioner did not submit documentation showing that the Beneficiary had completed these courses during his tenure with the foreign entity.

In a request for evidence (RFE), the Director advised the Petitioner that its initial evidence was insufficient to demonstrate that the Beneficiary possesses knowledge that is "special" or "advanced" and noted that it did not provide evidence that allows a comparison of the Beneficiary's knowledge to that of others working within the company, and within the industry. The Director suggested evidence and information the Petitioner could submit to address these deficiencies.

In response, the Petitioner reiterated that it and its foreign affiliate "provide Specialized Services to Aeronautic Industry focusing on Repair, Maintenance and Return to Service of Airplanes such as Boeing and Airbus." It explained that its personnel must be "[h]ighly trained and as a requirement should have not less than seven years of [e]xperience in the specific type of aircraft." The Petitioner stated that it verifies the profile of all its technicians and emphasized that due to "a heavy shortage of qualified technicians in aviation, our company strives its efforts keeping this combination of high-level education and experience to satisfy our customer needs."

The Petitioner's response to the RFE included the foreign entity's internal job profiles for the positions of "aircraft mechanic leader" and "aviation mechanic assistant" which were intended to compare "the roles, requirements and responsibilities of a licensed aviation mechanic compared to an unlicensed one." The education and experience requirements for the "leader" position include an FAA license, a "national aircraft maintenance license of the highest rank" from the individual's country of birth, and seven years' experience in the management of aviation maintenance services, while the "assistant"

[3] Elsewhere in the same letter, the Petitioner indicated that the Beneficiary has 15 years of experience as an aircraft mechanic. Although the Petitioner indicated in an index of exhibits that it was submitting a copy of the Beneficiary's resume in support of the petition, we note that this evidence was not included. The record does not detail the Beneficiary's employment history prior to 2021, when he was hired by the Petitioner's foreign affiliate, and therefore does not sufficiently document the amount of experience he has in the industry and with respect to specific aircraft.

position requires a high school diploma and "knowledge of general mechanics, aviation or related fields."

The Petitioner also submitted training certificates for several internal training courses the Beneficiary completed with its foreign affiliate. Although the Director specifically advised the Petitioner of its burden to provide English translations of all foreign language documents, the Spanish-language certificates were not accompanied by such translations. As noted above, any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). We note that it appears that the Beneficiary completed three 8-hour courses and three 2-hour courses (30 hours of training in total) between May 3 and May 6, 2021, as part of his onboarding with the company, and completed an additional 30-hour course in July 2022.

The RFE response also included a letter explaining that "becoming an [FAA-licensed] aviation mechanic requires a highly qualified individual with a significant investment of time, money and sacrifice that not everyone is willing to undertake." The letter explains that this occupation typically requires attendance at a school that offers the specialty as well as registering for and passing the FAA's theoretical, oral and practical knowledge tests needed to obtain the aviation mechanic ("FAA A&P") license. The Petitioner provided an excerpt from 14 C.F.R. § 65, which regulates eligibility, knowledge, experience, skill, and ratings requirements for FAA certification of aircraft mechanics.[4] Finally, the Petitioner submitted media and industry articles addressing a shortage of aviation mechanics and technicians, as well as examples of position openings for aviation technicians and mechanics posted online by other U.S. employers.

After reviewing the evidence discussed above and the Petitioner's appeal, we agree with the Director's determination that the Petitioner did not establish the Beneficiary possesses specialized knowledge.

The Petitioner has repeatedly emphasized that the occupation of aviation maintenance technician requires a substantial amount of education, training, and practical experience specific to the aviation industry, and requires licensure from the FAA to fully perform the duties of the position. While we do not disagree that the type of work performed is "specialized" according to the common usage of that term, the Petitioner cannot establish the Beneficiary's eligibility for L-1B classification simply by establishing that he works in a skilled occupation that requires licensure and significant preparation. Specialized knowledge, as defined in the state and regulations, generally requires more than possession of a long tenure in a particular industry or a complex skill set.

Determining whether a given beneficiary has "special knowledge" requires review of their knowledge of how the petitioning organization manufactures, produces, or develops its products, services, equipment, techniques, management, or other interests. Because "special knowledge" concerns knowledge of the petitioning organization's products or services, a petitioner may meet its burden

[4] The experience requirements outlined at 14 C.F.R. § 65.77 state that each applicant for an FAA mechanic certificate must present either (a) an authenticated document from a certificated aviation maintenance technician school, *or* (b) documentary evidence of either 18 or 30 months of practical experience depending on the rating sought (airframe, powerplant or both).

through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the same industry.

Here, the Petitioner indicates that it provides its customers (airlines and other aviation industry companies) with the services of aviation maintenance technicians who possess the knowledge, skill and qualifications needed to perform base and line maintenance functions on commercial aircraft and to train and instruct their staff. To support its specialized knowledge claim, it must demonstrate how the knowledge required to provide these services is truly different or uncommon when compared to the knowledge generally held by other, similarly employed aviation maintenance technicians. As noted by the Director, the Petitioner has not met its burden to differentiate the Beneficiary's knowledge from that held by other FAA-licensed aviation mechanics and technicians working in the commercial aviation industry.

The Petitioner highlights the Beneficiary's education, training, and certifications in the industry, but it did not identify any aspect of his knowledge that is distinct or uncommon in comparison to other similarly trained and experienced aviation technicians, other than noting that he is bilingual. The Petitioner provided evidence intended to show that FAA-licensed aircraft mechanics perform more complex duties than unlicensed aircraft mechanic assistants within its company. However, the relevant comparison here would be between the Petitioner's licensed FAA-aircraft mechanics and those employed by other organizations. The Petitioner has not provided the evidence needed to make such a comparison. Further, we cannot determine that the Beneficiary's fluency in both Spanish and English equates to special knowledge specific to the petitioner's business that distinguishes his knowledge from that possessed by other licensed aviation technicians or mechanics.

While the Petitioner submitted evidence indicating that its foreign affiliate has implemented an internal training program, the record does not adequately explain and document the amount and type of internal training typically completed by its aviation maintenance technicians, or the amount and type of training the Beneficiary himself completed. Accordingly, the record does not establish how or whether an employee's completion of this company-specific training results in its acquisition of knowledge that is distinct or uncommon from what is typically held by similarly employed workers.

The Petitioner emphasized that the Beneficiary "knows all our politics and company procedures in order to offer a high class of service to our new customers and he can transfer this knowledge" but does not describe or document these procedures in support of its claim that such knowledge qualifies as specialized knowledge. While we do not doubt that the company has internal procedures that its technicians must following in carrying out their work for clients, this company-specific knowledge cannot be considered special or advanced if it could be readily transferred to another worker. Here, the Petitioner did not submit sufficient evidence to demonstrate that any company-specific knowledge the Beneficiary possesses could not be readily transferred to an otherwise experienced aircraft mechanic.

Further, while it appears that the company offers internal training specific to Boeing and Airbus aircraft systems and equipment, any aircraft mechanic who is responsible for performing line maintenance services for these aircraft would reasonably be required to complete comparable training prior to undertaking such duties. In fact, the record shows the Beneficiary himself completed training on Boeing and Airbus aircraft with several different third-party organizations prior to joining the

foreign entity in 2021. The Petitioner has neither claimed nor documented that he was required to complete additional aircraft-specific training with its foreign affiliate prior to assuming his duties as an aviation technician. Further it has not claimed that its foreign affiliate provides training related to Boeing and Airbus aircraft that results in its technicians possessing knowledge of these aircraft that is not generally held by other aviation technicians working in the industry.

The Petitioner also emphasizes that there is considerable demand for aviation maintenance technicians and an expected shortage of available workers to fill this demand. The Petitioner is not required to demonstrate that the claimed specialized knowledge is not readily available in the labor market. However, an inquiry into whether knowledge is generally or commonly held in a given industry - and therefore not special, as that term is understood in this context - is separate from an inquiry into whether there are U.S. workers available to perform a given job. Therefore, despite submitting evidence indicating a shortage of aviation technicians in the United States, the Petitioner must still establish that the Beneficiary possesses knowledge in this field that is distinct or uncommon in comparison to that generally held by those who are similarly employed in the industry.

The Petitioner also submitted job postings from other U.S. companies, but this evidence shows that other employers in the same industry require their prospective aircraft mechanics and technicians to have comparable knowledge, experience, and licensure in the aviation field. The record supports the Director's determination that the knowledge the Beneficiary possesses, while complex, is not distinct from what is commonly held throughout this industry.

For the reasons discussed above, the Petitioner has not met its burden to establish that the Beneficiary possesses special knowledge.

We have also considered whether the evidence establishes that the Beneficiary possesses advanced knowledge. Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the Petitioner may meet its burden through evidence that the Beneficiary has knowledge of or expertise in such processes or procedures that is greatly developed or further along in progress, complexity and understanding in comparison to other workers within the organization. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

As noted, the Petitioner stated that the Beneficiary "knows all our politics and company procedures in order to offer a high class of service to our new customers" but did not articulate a specific claim that the Beneficiary possesses advanced knowledge in comparison to other workers within the organization based on his two years of employment with the foreign entity. Further, while the Petitioner submitted an organizational chart that shows him as a "technician leader" responsible for leading or supervising the work of other technicians and assistants, the record contains inconsistent information regarding his actual job title and level of responsibility. The initial letter from the foreign entity identified his title as an "Aviation Technician specialized in Boeing 737 Series and Airbus 320." In addition, a "Human Resources Notice" from the foreign entity indicate the Beneficiary was hired as an "Aviation Maintenance Technician."

Although requested by the Director, the Petitioner did not provide information that would allow a comparison between the Beneficiary and others working in similar positions within the organization

in terms of duties, internal training, experience, and any advanced knowledge. Further, the Petitioner did not identify the company processes or procedures, if any, in which the Beneficiary possesses advanced knowledge. The Petitioner indicates that he possesses the qualifications necessary to serve as an instructor in the United States but has not established whether he has performed similar duties abroad. It appears that this qualification may result from his completion of a 30-hour internal training course; however, knowledge that can be transferred through a relatively brief period of training cannot be considered "advanced." The evidence is therefore insufficient to establish that the Beneficiary's expertise in the organization's processes and procedures is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the organization.

While the Beneficiary's knowledge of certain internal procedures may be advanced compared to a new hire, the Petitioner must still show that he possesses advanced knowledge in comparison to similarly employed workers within the foreign entity and that the knowledge he possesses could not be readily transferred to another employee with a similar technical skill set. The Petitioner did not provide the information needed to make such a comparison and has not established that the Beneficiary possesses advanced knowledge.

The Petitioner has not demonstrated that the Beneficiary possesses specialized knowledge. We need not reach, and therefore reserve, the issue of whether he has been employed abroad in a position involving specialized knowledge and whether he would be employed in a specialized knowledge capacity in the United States. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where the applicant did not otherwise meet their burden of proof).

IV. L-1 VISA REFORM ACT

The remaining issue addressed by the Director is whether the Beneficiary's proposed employment complies with the provisions of the L-1 Visa Reform Act.

Under the L-1 Visa Reform Act, if a specialized knowledge beneficiary will be primarily stationed at the worksite of an unaffiliated employer, the petitioning employer must establish both: (1) that the beneficiary will be controlled and supervised principally by the petitioner, and (2) that the placement of the beneficiary is in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary and is not, essentially, an arrangement to provide labor for hire for the unaffiliated employer. Section 214(c)(2)(F) of the Act, 8 U.S.C. 1184(c)(2)(F). If a petitioner fails to establish both elements, the beneficiary will be deemed ineligible for classification as an L-1B intracompany transferee.

In the decision denying the petition, the Director concluded the Petitioner did provide sufficient explanation or evidence to establish that the Beneficiary's work would be controlled and supervised principally by the Petitioner while he is stationed at the worksites of unaffiliated employers. Further, the Director concluded that the Petitioner did not provide sufficient evidence to demonstrate that specialized knowledge specific to the petitioning organization is necessary to provide the outsourced aircraft maintenance services to its clients. Accordingly, the Director concluded that the Petitioner did not meet

its burden to establish that placement of the Beneficiary at the worksite of unaffiliated employers is not labor for hire.

On appeal, the Petitioner does not contest or otherwise acknowledge the Director's adverse determination with respect to its compliance with the provisions of the L-1 Visa Reform Act. An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (*citing Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)). Accordingly, for this additional reason, the appeal will be dismissed.

V. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.