U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 15927199

Date: MAR. 26, 2021

Appeal of California Service Center Decision

Form I-140, Petition for Multinational Managers or Executives

The Petitioner, a multinational fast-food chain operation, seeks to continue the Beneficiary's temporary employment as its "Senior Manager, Operations Latin American and Caribbean" under the L-1A 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 L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the California Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary would be employed in the United States in a managerial capacity. Specifically, the Director questioned whether the Beneficiary's role as a function manager would involve managing a clearly defined activity and whether the activity is essential to the organization. The Director also questioned the Beneficiary's level of seniority and discretionary authority over the function he is claimed to manage.

On appeal, the Petitioner addresses the Director's concerns, establishing that the operations function the Beneficiary has and will continue to manage is a clearly defined activity, which is essential to the organization because the decisions the Beneficiary makes and the initiatives he puts forth in the course of managing the operations function are critical, impacting and improving the operations of 2200 business units that are in the geographical area within the Beneficiary's purview. The Petitioner also provides information clarifying the reporting structure with respect to the operations function, thereby adequately addressing the Director's concerns about the Beneficiary's level of seniority and authority to make decisions that affect the operations of the Petitioner's franchises throughout Latin America and the Caribbean.

In sum, the Petitioner has established that the Beneficiary would more likely than not be employed in a managerial capacity in his proposed position. However, notwithstanding this determination, the Petitioner has not provided sufficient evidence demonstrating that the Beneficiary was employed abroad in a managerial capacity for the requisite one-year period. Therefore, this petition cannot be

approved based on the record as presently constituted and we will remand this matter for further consideration.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary in a managerial or executive capacity, or in a position requiring specialized knowledge for one continuous year within three years preceding the beneficiary's application for admission into the United States. 8 C.F.R. § 214.2(l)(1). 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 managerial or executive capacity. 8 C.F.R. § 214.2(l)(3)(ii).

II. BASIS FOR REMAND

The Beneficiary's dates of employment abroad were provided in a letter of employment from [redacted] the Petitioner's "Employment Law & Diversity and Inclusion Officer," who stated that years leading up to the Beneficiary's transfer to the United States, the Beneficiary held two different positions. The letter states that the Beneficiary first assumed the position of "Operations Manager from 2010 through 2013" and that he subsequently assumed the position of "Operations Excellence Manger in [redacted] from March 2013 until he was transferred to the United States . . . in July 2013." Although [redacted] provided a job duty breakdown describing the most recent position that the Beneficiary held during his foreign employment, that position lasted for a duration of no more than five months and therefore the job duties that pertain only to that position are not sufficient to demonstrate that the Beneficiary's employment abroad in a managerial capacity last for at least one year. In order to determine whether the Beneficiary had the requisite one year of employment abroad in a managerial capacity, we would have to consider the job duties and reporting structure that pertain to the Beneficiary's position as "Operations Manager," which would make up the remainder of the requisite one-year period. Because the Petitioner did not submit evidence pertaining to that position, we cannot conclude that it meets the statutory definition of managerial capacity. As such, we cannot conclude that the Beneficiary was employed abroad in a managerial capacity for one continuous year within three years preceding his admission into the United States as an L-1A nonimmigrant to work for the petitioning entity. 8 C.F.R. § 214.2(l)(1).

Accordingly, although the Petitioner has provided sufficient evidence establishing that the Beneficiary would more likely than not be employed in a managerial capacity in his proposed position with the U.S. entity, the evidentiary deficiencies preclude us from making a similar determination with regard to the Beneficiary's former employment abroad.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.