U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 5629416

Date: NOV. 21, 2019

Appeal of California Service Center Decision

Form I-129, Petition for L-1B Specialized Knowledge Worker

The Petitioner operates a video-on-demand streaming platform and seeks to temporarily employ the Beneficiary as a "Senior Backend Engineer" 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 that the Petitioner did not establish that the Beneficiary: possesses specialized knowledge; was employed abroad as a manager, executive, or in a position involving specialized knowledge; and would be employed in the United States in a specialized knowledge capacity.

On appeal, the Petitioner asserts that the Director ignored probative evidence of the Beneficiary's eligibility and imposed a higher standard than the requisite preponderance of the evidence standard.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will sustain the appeal.

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 Beneficiary has been employed by the Petitioner's foreign subsidiary as a senior backend engineer for more than one year. The Petitioner provided evidence that it uses proprietary, custom-built software for analytics and machine learning which make its technology infrastructure distinct from that of its competitors in the streaming video industry. While the Director noted that the Beneficiary is required to use various third-party software and tools to perform his duties, the Petitioner explained that he also requires a deep understanding of the company's backend, frontend, and infrastructure, and how these aspects of the system interact with all of the platforms on which users stream its content. Further, the

Petitioner explained that, while the Beneficiary has been with the company for less than two years, they hired him specifically because they required an experienced engineer with his specific skillset to assist with redeveloping the backend of its cloud-based systems. In this regard, the record shows that, after a period of advanced one-on-one training with the company's top technical staff, the Beneficiary was charged with rebuilding the Petitioner's entire backend application programming interface (API). The record reflects that he also developed a clustering technique to scale-out the platform's processing capabilities and a next-generation processing pipeline to greatly improve the stability and efficiency of the Petitioner's systems. The Petitioner states that, as a result of these assignments, the Beneficiary possesses specialized knowledge of its streaming infrastructure that is not generally found outside the organization or even within it.

The Petitioner has submitted detailed, consistent, and credible descriptions of the Beneficiary's training and experience which show how he gained specialized knowledge in these areas which could not be readily transferred to another employee in the Petitioner's industry, is distinct in comparison to that possessed by other backend engineers within the foreign company, and is advanced compared to that possessed by the Petitioner's current U.S.-based engineers. The Petitioner has also explained and documented the Beneficiary's special assignments as described above, and has submitted both internal emails and other communications authored by the Beneficiary in support of its claim that he is considered a key subject matter expert on cloud infrastructure questions and issues within the company. Further, the record sufficiently demonstrates that the proposed position in the United States requires an employee who possesses the Beneficiary's specialized knowledge.

ORDER: The appeal is sustained.