U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 11812622

Date: OCT. 23, 2020

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Skilled Worker

The Petitioner seeks to employ the Beneficiary as a grain and livestock farmworker under the third-preference, immigrant classification for skilled workers. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i).

The Director of the Nebraska Service Center denied the petition and dismissed the Petitioner's following motion to reopen. We dismissed the Petitioner's appeal and the company's three subsequent motions to reopen.

Our most recent decision found that the Petitioner demonstrated the Beneficiary's qualifying experience and licensing for the offered position. We ruled, however, that the record did not establish the Beneficiary's qualifying education for the position. We also denied the Petitioner's request to change the requested immigrant visa classification from skilled worker to "other worker." *See* section 203(b)(3)(A)(iii) of the Act.

The matter is before us again on the Petitioner's motion to reopen. We will dismiss the motion.

I. MOTION REQUIREMENTS

A motion to reopen must state new facts, supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant a motion that meets these requirements and establishes eligibility for the requested benefit.

II. THE BENEFICIARY'S EDUCATION

The Petitioner submits a February 2019 letter from a member of an Afrikaner settlement in South Africa. The letter states the unavailability of a certificate from a South African youth center where the Beneficiary gained employment experience. The letter's signatory stated that the work "offered a high school equivalent in the form of a practical diploma."

The Petitioner's owner states that the Beneficiary has also requested a certificate of high school equivalency from a South African government agency. But the owner states that the Covid-19 pandemic will delay receipt of that certificate.

The evidence on motion does not establish the Beneficiary's educational qualifications for the offered position. The accompanying labor certification from the U.S. Department of Labor (DOL) states the position's minimum educational requirements as a U.S. high school diploma or "a foreign educational equivalent." *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Acting Reg'l Comm'r 1977) (requiring a beneficiary to meet all DOL-certified job requirements). The letter does not demonstrate the Beneficiary's possession of a foreign educational equivalent of a U.S. high school diploma. First, the record does not indicate the basis of the signatory's knowledge of South African high school equivalencies. Also, the letter claims that the Beneficiary gained the foreign equivalent of a U.S. high school diploma through employment, rather than education.

The letter does not demonstrate the Beneficiary's possession of the minimum educational requirements certified by the DOL. We will therefore affirm the appeal's dismissal.

III. THE REQUESTED IMMIGRANT VISA CLASSIFICATION

Even if the Petitioner had demonstrated the Beneficiary's educational qualifications for the offered position, we could not approve the motion or the petition. As indicated in our most recent decision, the position's job requirements do not support the requested immigrant visa classification.

A position for a skilled worker must require at least two years of training or experience. Section 203(b)(3)(A)(i) of the Act. Relevant, post-secondary education may be considered as training. 8 C.F.R. § 204.5(l)(2) (defining the term "skilled worker"). Here, the labor certification states the minimum requirements of the offered position of grain and livestock farmworker as a high school diploma and six months of experience in the job offered or as a commercial truck driver.

The offered position requires less than two years of training or experience. The position's job requirements therefore do not support the requested immigrant visa classification.

IV. CONCLUSION

The record on motion does not establish the Beneficiary's qualifying education for the offered position. The position's job requirements also do not support the requested immigrant visa classification. We will therefore affirm the appeal's dismissal.

ORDER: The motion to reopen is dismissed.