U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34031994

Date: OCT. 31, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a global supplier of zip closures, seeks to temporarily employ the Beneficiary as a technical trainer (advanced) lead 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 Texas Service Center denied the petition, concluding that the Petitioner did not establish that the Beneficiary was employed abroad in a position involving specialized knowledge or that the Beneficiary would be employed in the United States in a position involving specialized knowledge. The matter is now before us on appeal. 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 as the Petitioner did not establish that the Beneficiary was employed abroad in a specialized knowledge capacity. Since this issue is dispositive, we decline to reach and hereby reserve the Petitioner's arguments with respect to the Director's other ground for denial. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *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 an applicant is otherwise ineligible).

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. BACKGROUND

The Petitioner describes itself as a "manufacturer of trademarked [redacted] It claims that it manufactures its zip closures "through use of its own proprietary and internally designed extrusion equipment and dies." The Petitioner further explained that its extrusion equipment and tooling dies used in this process are manufactured by and exclusive to the foreign affiliate.

The Petitioner stated that the Beneficiary joined the foreign affiliate in September 2012 as a production operator, at which time he received extensive internal training on the company's extrusion process and production equipment and instruction on the specifics of setting up, debugging, and operating such equipment. According to the Petitioner, the Beneficiary currently occupies a supervisory production position (team lead).

The Petitioner explained that the Beneficiary's transfer to the United States is vital for the company's continued success and expansion, noting that the Beneficiary's proficiency on its double zipper winding production line qualifies him to train and manage production of this line in the United States. The Petitioner noted that it had previously been provided the production lines and associated equipment needed to manufacture its proprietary [redacted] product in the United States, but indicated that a planned upgrade to a double production line required the specialized knowledge of the Beneficiary to train the U.S. employees on the entire production process.

In a request for evidence (RFE), the Director noted that the Petitioner's initial submissions did not demonstrate that the Beneficiary's knowledge was distinct or uncommon in comparison to other team leads employed by the foreign entity, and requested additional evidence demonstrating that the Beneficiary had been employed abroad in a specialized knowledge capacity.

In response, the Petitioner maintained that the Beneficiary was a subject matter expert, and his services were essential to ensure proper training of the U.S. employees. The Petitioner provided copies of "skill lists" for various positions within the company, including team lead, material handler, production operator, and technical trainer (advanced) lead. The Petitioner also provided a copy of the Beneficiary's team lead test, his certificate for "Train the Trainers," and letters from its president and manufacturing executive.

In denying the petition, the Director concluded the Petitioner did not establish that the Beneficiary was employed abroad in a special or advanced knowledge capacity. The Director stated that the Petitioner did not provide sufficient insight into the Beneficiary's day-to-day job duties and did not establish that his use of the company's methods, tools, or processes was overly complex or sophisticated.

On appeal, the Petitioner asserts that the Director's decision was erroneous and asserts that it provided sufficient probative evidence to demonstrate the Beneficiary's employment abroad in a specialized knowledge capacity. The Petitioner points to previously submitted documentation of the Beneficiary's

experience and qualifications and asserts this evidence demonstrates that his knowledge of its proprietary extrusion production process is specialized.

III. FOREIGN EMPLOYMENT IN A SPECIALIZED KNOWLEDGE CAPACITY

The primary issue in this matter is whether the Petitioner established that the Beneficiary was employed in a specialized knowledge capacity abroad.

Under the statute, a beneficiary is considered to have specialized knowledge if he or she has: (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, or both prongs, of the statutory definition of specialized knowledge. Specialized knowledge is also defined as special 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).

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not 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 an employee is able to gain specialized knowledge within the organization and explain how and when the individual beneficiary gained such knowledge.

The Petitioner provided the following breakdown of the Beneficiary's duties abroad in the position of team lead:

60% of the time

- Trains operators in the performance of their duties.

- Interprets specifications and job orders for workers and assigns duties:

    - Adjusts work and assignments to meet production needs;
    - Meets production schedules, quality, safety, and output metrics;
    - Supervises setups, changeovers, and startups on production lines;
    - Troubleshoots and corrects product and line problems and defects;
    - Supervises resin changeovers and connections in the mixing room;
    - Assigns duties and examines work as it is processed for exactness, neatness, and conformance to policies and procedures;
    - Determines work procedures, prepares work schedules, guides and expedites workflows thru continuous process checks and adjustments as it progresses thru to completion,

- Maintains teamwork and harmony among workers;
- Communicates with Production Manager on a regular basis to provide shift and employee status;
- Participates in and provides input for daily production meetings;
- Demonstrate leadership behavior at all times;
- Support company decisions;
- Reports and monitors employee attendance.

20% of the time

- Support the Quality Assurance and Sanitation standards and trains employees on same.

- Works closely with Quality Control and Warehouse personnel.

20% of the time

- Resolves problems to ensure progress, this requires continuous involvement in the manufacturing and inspection process, it requires presence on the floor on a regular basis.

- Studies, recommends and implements procedures to improve efficiency of subordinates.

A. Advanced Knowledge

We will first discuss whether the Petitioner has demonstrated that the Beneficiary was employed abroad in a position requiring knowledge that is "advanced." 8 C.F.R. § 214.2(l)(1)(ii)(D). As a preliminary matter, although the Petitioner vaguely indicates that the Beneficiary's knowledge is "specialized and advanced," it does not address these two bases for eligibility separately and articulate how he meets each standard. The Petitioner does, however, state that the Beneficiary's "expertise in [its] processes and procedures [] is greatly developed or further along in progress, complexity and understanding in comparison to other workers in [the foreign affiliate's] operations," suggesting the Beneficiary holds advanced knowledge.

Determinations concerning "advanced knowledge" require review of a beneficiary's knowledge of the petitioning organization's processes and procedures. 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. Also, as with special knowledge, a petitioner ordinarily must demonstrate that a beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. *See generally* 2 *USCIS Policy Manual* L.4, https://www.uscis.gov/policymanual.

First, the Petitioner has not sufficiently defined the nature of the Beneficiary's advanced knowledge while employed as a team lead abroad. For instance, the description of duties provided for the Beneficiary's position indicates that he performs a plethora of duties, the majority of which seem to

encompass employee oversight and supervision. For example, the Petitioner claimed that a significant amount of the Beneficiary's time was devoted to assigning duties and determining work schedules. In addition, the Petitioner claims that the Beneficiary "studies, recommends and implements procedures to improve efficiency of subordinates." The record as constituted does not clearly reflect the Beneficiary's use of specific company processes and procedures, but rather suggest he was involved in the performance of a wide array of supervisory, administrative and operational tasks. Although he is vaguely tasked with training his subordinates, implying he trains them in the use of the Petitioner's extrusion process, the record also reflects that he is tasked to train employees on quality assurance and sanitation standards. Therefore, in its totality, the supporting evidence reflects the Beneficiary's performance of many different administrative and operational tasks, rather than a focus and mastery of a specific set of methodologies pertaining to the Petitioner's proprietary extrusion process. The Petitioner does not sufficiently demonstrate that the Beneficiary's duties as a team lead abroad were materially different from any similarly placed team lead in the organization.

The Petitioner also did not sufficiently establish how the Beneficiary's knowledge was greatly developed as compared to similarly placed colleagues within the organization by providing probative comparisons of his knowledge against that of his colleagues. Determining whether knowledge was "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others. The Petitioner bears the burden of establishing such a favorable comparison. *Id.* However, the Petitioner provided no specific comparisons of the Beneficiary's knowledge and experience as a team lead against that of other team leads or colleagues within the foreign organization. Although the Petitioner asserted that the Beneficiary's knowledge was more advanced than its U.S-based production process coordinator, and provided a skills matrix for comparison in response to the RFE, it did not provide similar documentation comparing him to other team leads employed alongside him at the foreign entity, or otherwise provide an explanation of how the Beneficiary's knowledge of its processes and procedures exceeded that of other colleagues within the organization to credibly differentiate his knowledge and experience.

On appeal, the Petitioner again asserts that the Beneficiary possessed specialized knowledge of the foreign affiliate's proprietary processes and procedures, specifically its proprietary extrusion process. However, the Petitioner does not clearly articulate the nature of its proprietary processes and procedures, but rather emphasizes that the Beneficiary's 11+ years of experience working for the foreign entity has imparted him with specialized knowledge.

We have little doubt that the Beneficiary was likely a valuable employee while employed abroad as a team lead, but the Petitioner has not met the regulatory requirement of demonstrating with documentary evidence that the Beneficiary's knowledge while employed in this position required advanced knowledge of the organization's processes and procedures that was greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's operations. For the foregoing reasons, the Petitioner did not establish that the Beneficiary possesses advanced knowledge.

B. Special Knowledge

We will next discuss whether the Petitioner has demonstrated that the Beneficiary's knowledge while employed as a team lead was "special." 8 C.F.R. § 214.2(l)(1)(ii)(D).

Determining whether a beneficiary had "special knowledge" requires review of a given beneficiary's knowledge of how the petitioning organization manufactures, produces, or develops its products, services, research, equipment, techniques, management, or other interests. 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 had knowledge that was distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry. Knowledge that is commonly held throughout a petitioner's industry or that can be easily imparted from one person to another is not considered special knowledge. *See generally* 2 *USCIS Policy Manual* L.4, https://www.uscis.gov/policymanual.

Again, as we previously indicated, the Petitioner did not clearly assert whether the Beneficiary's knowledge was advanced or special, or both. Although the Petitioner implies that the Beneficiary's knowledge is advanced based on his claimed expertise in the Petitioner's proprietary extrusion process, we will nevertheless evaluate the record to determine whether his knowledge is "special." Upon review, the Petitioner has not established that the Beneficiary's knowledge is special as defined by the regulations.

The Petitioner asserts throughout the record that the Beneficiary has specific knowledge of the foreign entity's internal policies. This alone, however, is not sufficient to establish that his knowledge is distinct or uncommon in the industry. In fact, it is common in nearly every industry for companies to hold unique or proprietary knowledge and to work on highly complex products and services. The Petitioner must set the Beneficiary apart from similarly placed workers within the industry and demonstrate that his knowledge as distinct or uncommon in comparison.

Here, the Petitioner did not specifically compare the Beneficiary's education, experience, and training to similarly placed team leads in the industry. In fact, the Petitioner acknowledged that its competitors "may manufacture a similar product [redacted]' and "they no doubt employ somewhat analogous positions." It is also reasonable to conclude that professionals occupying similar positions within the Petitioner's industry likely held knowledge of the processes and procedures of their specific employers, much like the Beneficiary. Although the Petitioner asserts that similar positions in the industry do not perform the same type of work or deploy the same type of duties, the Petitioner did not sufficiently articulate how the Beneficiary's experience was uncommon when compared to other similarly placed colleagues within the industry. Without objective evidence to the contrary, it is reasonable to conclude that there are many other team leads who have extensive experience in their company's processes and procedures. Therefore, the Petitioner has not established that the Beneficiary's knowledge is "special" as defined by the regulations.

IV. CONCLUSION

The Beneficiary did not establish that the Beneficiary was employed abroad in a specialized knowledge capacity. Section 101(a)(15)(L) of the Act. For this reason, the appeal must be dismissed.

ORDER: The appeal is dismissed.