U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 33360385

Date: SEPT. 3, 2024

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner, a manufacturer of automotive components, seeks to temporarily employ the Beneficiary as a plant quality control systems manager 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 record did not establish that the Beneficiary has been employed abroad in a qualifying capacity, and that the Petitioner will employ the Beneficiary in the United States in a managerial or executive capacity. The matter is now before us on appeal under 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

To establish eligibility for the L-1A 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 managerial or executive 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).

Since January 2018, the Beneficiary has worked for the Petitioner's foreign parent company in India as a plant quality manager in [redacted]

The Petitioner claims that the Beneficiary's past employment abroad and intended employment in the United States both meet the requirements of a managerial capacity. The Petitioner did not claim that either position qualifies as an executive capacity, or that the position abroad involved specialized knowledge. The Director determined that the Petitioner did not establish that either position qualifies as a managerial capacity.

"Managerial capacity" means an assignment within an organization in which the employee primarily manages the organization, or a department, subdivision, function, or component of the organization; supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization; has authority over personnel actions or functions at a senior level within the organizational hierarchy or with respect to the function managed; and exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. Section 101(a)(44)(A) of the Act.

To show that a beneficiary is eligible for L-1A nonimmigrant visa classification as a manager, a petitioner must show that the beneficiary will perform all four of the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(A) of the Act. If a petitioner establishes that the offered position meets all four elements set forth in the statutory definition, the petitioner must then prove that the beneficiary will be *primarily* engaged in managerial duties, as opposed to ordinary operational activities alongside the petitioner's other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006). In determining whether the beneficiary's duties will be primarily managerial, we consider the description of the job duties, the company's organizational structure, the duties of the beneficiary's subordinate employees, the presence of other employees to relieve the beneficiary from performing operational duties, the nature of the business, and any other factors that will contribute to understanding the beneficiary's actual duties and role in the business.

If staffing levels are used as a factor in determining whether an individual is acting in a managerial capacity, we must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. *See* section 101(a)(44)(C) of the Act.

The Petitioner indicates that the Beneficiary is employed abroad as a personnel manager, with authority over 28 subordinates, but that he would be employed as a function manager in the United States, with a smaller subordinate staff. An organizational chart for the petitioning U.S. entity shows six positions subordinate to the Beneficiary, with one of those positions vacant at the time of filing.

We will remand the matter for a new decision because the record requires further development. In the denial notice, the Director stated that the job descriptions for the Beneficiary's position abroad and his intended U.S. position contain unexplained technical language. When the Director first asked for more details related to both positions in a request for evidence, the Director did not raise this issue. Job descriptions submitted on appeal appear to include less technical information about the Beneficiary's past and intended future duties, and the Director has not yet had an opportunity to review and consider these materials. The Petitioner has also submitted materials relating to most of the Beneficiary's claimed subordinates abroad, which also warrant consideration.

The appeal also includes correspondence from South Carolina's Secretary of Commerce, which may be material to the petition and should also be considered.

The Petitioner asserts that the Beneficiary will manage the company's essential function of "Plant Quality Control." We acknowledge that ensuring the quality of manufactured parts can be understood to be an essential function. The quality of those parts affects not only the Petitioner's reputation among its customers, but also potentially the safety of drivers and passengers in the vehicles incorporating those parts. But review of the Petitioner's U.S. organizational chart reveals an issue that may warrant further exploration. The chart shows that the Beneficiary, as plant quality control systems manager, would report directly to the "Quality Manager." The chart does not show that the quality manager would have any other direct reports, and it does not describe the quality manager's responsibilities or duties. Therefore, the Petitioner has not established that the Beneficiary, rather than the quality manager to whom he would report, would manage the quality control function at the petitioning plant.

The Director's denial notice relies in significant part on issues not clearly raised in the request for evidence, and the record as it now stands neither confirms nor precludes the Beneficiary's eligibility for the classification sought. Therefore, we will withdraw the Director's decision and remand the matter for consideration of the newly submitted materials and further development of the record, including, if the Director deems necessary, issuance of a new request for evidence.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.