U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF H-P-S-, INC.

DATE: SEPT. 11, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a manufacturer and wholesaler of industrial power generators, seeks to temporarily employ the Beneficiary as a "Senior Product Development Engineer - R&D" under the L-1B nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) § 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, as required, that the Beneficiary possesses specialized knowledge, that he was employed abroad in a capacity that was managerial, executive, or involved specialized knowledge, or that he would be employed in a specialized knowledge capacity in the United States.

On appeal, the Petitioner contends that the Director overlooked key evidence and that the denial decision was factually flawed, improperly reasoned, and did not apply the preponderance of the evidence standard to the case.

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 parent company as a product development engineer for more than one year and the record establishes that he was required to complete at least 750 hours of internal training followed by months of supervised on-the-job experience in the company's products, manufacturing processes, research and development and prototyping techniques, and proprietary digital control technologies prior to receiving a promotion to this position. The Petitioner has submitted detailed, consistent, and credible descriptions of his 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 product development 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, which included developing a method to streamline the design and prototyping process for new products, and performing ongoing research and development of the company's products to meet increasingly stringent environmental emissions standards. The Petitioner described in detail why the Beneficiary's prior assignments make him uniquely qualified to undertake the offered position in the United States.

Further, the record sufficiently demonstrates that the proposed position in the United States requires an employee who possesses the Beneficiary's specialized knowledge of the company's products, research and development processes, and manufacturing techniques. The Petitioner has explained and documented the imminent expansion of its U.S. manufacturing capabilities, which will require the deployment of new equipment and machinery currently used by its foreign parent company, extensive research and development work associated with the introduction of a new product line, re-design of existing products to comply with new U.S. emissions standards, and the training of new U.S. staff who will be hired to support these increased manufacturing and product development activities. It has shown that the Beneficiary's specialized knowledge, gained within the foreign parent's headquarters, will be instrumental to the U.S. company's expansion efforts.

The Petitioner has established that the Beneficiary possesses specialized knowledge, and that he has been and will be employed in positions requiring specialized knowledge.

ORDER: The appeal is sustained.

Cite as *Matter of H-P-S- Inc.*, ID# 1860498 (AAO Sept. 11, 2018)