U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10496585

Date: SEPT. 15, 2020

Appeal of California Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, which intends to distribute chemicals for use in fertilizer and livestock feed, seeks to temporarily employ the Beneficiary in the United States as chief executive officer of its new office[1] under the L-1A 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-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, as required, that the Beneficiary has been employed abroad in a managerial or executive capacity. The matter is now before us on appeal.

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

The record indicates that the Beneficiary had authority over an intermediate level of managers and supervisors who, in turn, oversaw several front-line employees. The information provided by the Petitioner indicates that the foreign entity's business activities and its personnel and management structure were sufficient to relieve the Beneficiary from performing primarily non-qualifying tasks; the Beneficiary was not simply the nominal supervisor of a skeleton staff with inflated job titles. The Beneficiary's oversight over subordinate supervisors and managers is consistent with the statutory definition of managerial capacity at section 101(a)(44)(A) of the Act.

The Petitioner has provided sufficient information and evidence to establish, by a preponderance of the evidence, the Beneficiary's managerial capacity in his past employment abroad.

ORDER: The appeal is sustained.

[1] The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.