U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 19031227

Date: SEP. 30, 2021

Appeal of California Service Center Decision

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

The Petitioner, a commercial airline, seeks to extend[1] the temporary employment of the Beneficiary as "Account Manager – Leisure Sales" under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary was employed abroad in a managerial, executive, or specialized knowledge capacity or that she would be employed in a managerial or executive capacity in the proposed position with the U.S. entity.

The matter is now before us on appeal. The Petitioner reasserts the claim that the Beneficiary was and would be employed in a managerial capacity. More specifically, the Petitioner contends that the Beneficiary's job duties and placement within the foreign and U.S. entities are consistent with those of a function manager.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we find that the Petitioner has met its burden of establishing that the Beneficiary was more likely than not employed abroad and would more likely than not be employed in the United States in a managerial capacity.

The term "function manager" applies generally when a beneficiary does not supervise or control the work of a subordinate staff but instead is primarily responsible for managing an "essential function" within the organization. *See* section 101(a)(44)(A)(ii) of the Act. If a petitioner claims that a beneficiary will manage an essential function, it must clearly describe the duties to be performed in managing the essential function. In addition, the petitioner must demonstrate that "(1) the function is a clearly defined activity; (2) the function is 'essential,' i.e., core to the organization; (3) the beneficiary will primarily *manage*, as opposed to *perform*, the function; (4) the beneficiary will act at a senior level within the organizational hierarchy or with respect to the function managed; and (5) the beneficiary will exercise discretion over the function's day-to-day operations." *Matter of G- Inc.*, Adopted Decision 2017-05 (AAO Nov. 8, 2017).

[1] The Beneficiary was admitted into the United States pursuant to a previously approved blanket petition.

Upon *de novo* review, we conclude that the record is sufficient to establish that the Beneficiary more likely than not will act in a managerial capacity in the United States. The Petitioner has submitted a detailed description of the Beneficiary's U.S. duties indicating that she will be primarily engaged in qualifying managerial tasks overseeing an essential function within the sales department of the company. In addition, the Petitioner provided credible and detailed evidence demonstrating that the Beneficiary more likely than not will delegate a majority of non-qualifying operational tasks to subordinates, including subordinate sales personnel, vendors, agencies, and analysts. The Petitioner identified the essential function with specificity and provided evidence, including evidence submitted on appeal, that the function is essential to the Petitioner's business operations. The Petitioner also established that the Beneficiary acts at a senior level with respect to the function managed and exercises discretion over the day-to-day operations of the function. As such, the evidence demonstrates that the Beneficiary will primarily perform the duties of a function manager in the United States.

In addition, the Petitioner has demonstrated that the Beneficiary acted as a function manager in her former capacity abroad. In fact, the Beneficiary's role abroad appears to be similar to her role in the United States and the Petitioner has submitted a detailed and credible duty description for her former position abroad. The Petitioner also identified the essential function the Beneficiary managed and its core value to the foreign office. The record also includes evidence that the Beneficiary directed other managers, call center staff, agencies, and external vendors and that these individuals relieved the Beneficiary from performing the duties of the function. The record includes sufficient evidence to demonstrate that she operated at a senior level with respect to the function managed and had discretionary authority relating to the function managed. In sum, the submitted evidence credibly demonstrates that the Beneficiary more likely than not devoted a majority of her time to qualifying managerial tasks abroad. Therefore, the Petitioner sufficiently established that the Beneficiary acted as a function manager in her former capacity abroad.

The totality of the evidence establishes that: (1) the Beneficiary will more likely than not be employed in a managerial capacity in the United States and (2) she was employed in a managerial capacity in her former capacity abroad. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has met that burden.

ORDER: The appeal is sustained.