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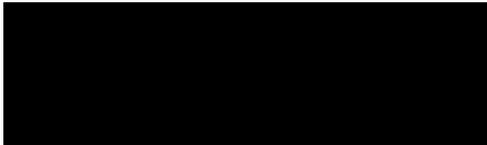
FILE: EAC 06 145 50132 Office: VERMONT SERVICE CENTER Date: DEC 12 2007

IN RE: Petitioner:
Beneficiary



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is engaged in information technology services, and seeks to employ the beneficiary as a programmer analyst. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition, concluding that the record did not establish that the beneficiary is qualified to perform the duties of a specialty occupation. The director disputed the validity of the evaluation of education submitted by the petitioner, as it indicates the beneficiary possesses the equivalent of a bachelor's degree in electrical engineering even though the beneficiary's school transcript indicated only three years of courses completed towards her degree. On appeal, counsel contends that the director erred in denying the petition as the beneficiary completed high school plus one year of university-level credit, and three years of studies at the Osmania University where the beneficiary completed her secondary-level studies.

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proposed position.

The AAO finds that the petitioner has established that the beneficiary qualifies to perform the duties of a specialty occupation. Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, an alien must meet one of the following criteria:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree

in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

In making its determination as to whether the beneficiary qualifies to perform the duties of a specialty occupation, the AAO turns to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(C)(1), as described above, which requires a demonstration that the beneficiary holds a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university. The beneficiary did not obtain a degree from a United States institution of higher education, so she does not qualify under the first criterion.

The beneficiary does qualify under the second criterion, which requires a demonstration that the beneficiary's foreign degree has been determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university. The record contains a November 6, 2006 evaluation from Dr. [REDACTED], an evaluator for Universal Evaluation and Consulting, Inc. According to Dr. [REDACTED] the beneficiary completed high school and one year of university level credit and was awarded a Diploma in Electronics and Communication Engineering. In addition, the beneficiary completed three years of studies at Osmania University. The evaluator determined that the beneficiary's foreign studies is the equivalent of a Bachelor of Science in Electrical Engineering with a specialization in Electronics and Communication from an accredited college or university in the United States. This evaluation satisfies 8 C.F.R. § 214.2(h)(4)(iii)(C)(2) as the evaluation is based solely upon the beneficiary's foreign degree. 8 C.F.R. § 14.2(h)(4)(iii)(D)(3).

In his decision, the director noted that the petitioner failed to demonstrate that Osmania University accepted the beneficiary's one year of college credit from the State Board of Technical Education and Training in India, and that this one year of college credit was applied toward a four year bachelor's degree. On appeal, the petitioner submitted a letter from the registrar office of Osmania University explaining that the three year program is the same as the four year program since students in the 3 year program completed a diploma in order to enter the 3 year program. The petitioner also submitted the diploma from Osmania University awarded to the beneficiary for the completion of a Bachelor of Engineering in Electronics and Communication Engineering.¹

The petitioner established that the beneficiary qualifies to perform the duties of a specialty occupation. As such, the appeal will be sustained and the petition approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

ORDER: The appeal is sustained. The petition is approved.

¹ This information is corroborated by the AACRAO Electronic Database for Global Education (EDGE), a web-based resource for the evaluation of foreign educational credentials.