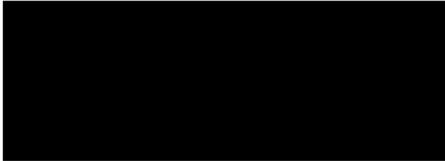




U.S. Department of Justice
Immigration and Naturalization Service

DZ

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File: WAC 00 070 50258 Office: California Service Center Date:

IN RE: Petitioner:
Beneficiary:



NOV 01 2001

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)

IN BEHALF OF PETITIONER:



Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the director and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a cellular accessories wholesaler with twenty-one employees and an asserted gross annual income of over \$22 million. It seeks to employ the beneficiary as a management analyst for a period of three years. The director determined that the petitioner had not established that the beneficiary qualifies to perform services in a specialty occupation.

On appeal, counsel submits a statement and indicates that additional material in support of the appeal will be forthcoming within thirty days. As of the date of this decision, counsel has failed to submit any additional statement, brief, or evidence to this office. Therefore, the record must be considered complete.

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), provides in part for nonimmigrant classification to qualified aliens who are coming temporarily to the United States to perform services in a specialty occupation. Section 214(i)(1) of the Act, 8 U.S.C. 1184(i)(1), defines a "specialty occupation" as an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to section 214(i)(2) of the Act, 8 U.S.C. 1184(i)(2), to qualify as an alien coming to perform services in a specialty occupation the beneficiary must hold full state licensure to practice in the occupation, if such licensure is required to practice in the occupation. In addition, the beneficiary must have completed the degree required for the occupation, or have experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The issue to be examined in this proceeding is whether the beneficiary is qualified to perform the services of a specialty occupation, which the director concluded was the position of a management analyst.

On appeal, counsel states that the beneficiary's academic credentials were currently being evaluated to establish that her foreign education is equivalent to a master's degree.

The beneficiary holds a baccalaureate degree in commerce conferred by a Filipino institution. A credentials evaluation service found the beneficiary's foreign education equivalent to a bachelor of science degree in business administrations awarded by a regionally

accredited college or university in the United States. The duties of the proffered position are described in pertinent part as follows:

Plan studies of work problems and procedures, such as organizational change, communications, information flow, inventory control and cost analysis. Analyze data gathered, develop information and consider available solutions. Organize and document findings and prepare recommendation for management visibility. Conduct operational reviews to ensure systems are applied effectively.

The duties described are the responsibilities of a management analyst. According to the Department of Labor's (DOL) Occupational Outlook Handbook (Handbook), 2000-2001 edition, at page 69, a management analyst is concerned with analyzing and proposing ways to improve an organization's structure, efficiency, or profit. Therefore, as the job meets the requirements of the specialty occupation of a management analyst, the beneficiary's educational and employment experience must meet the minimum requirements for a management analyst.

At page 70 of the Handbook, the DOL states the following about the level of training required for management analysts:

Employers in private industry generally seek a master's degree in business administration or a related discipline and at least five years of experience in the field in which they plan to consult.

In the instant case, the beneficiary is seeking employment as a management analyst in the private sector and has the equivalent of a bachelor's degree in business administration. The beneficiary does not hold a master's degree, which the DOL indicates is generally the minimum requirement for a management analyst job in the private sector. Furthermore, the petitioner specifies that it requires only two years of experience in the job offered or related field in management, rather than the minimum of five years of experience recommended by the DOL.

The petitioner has not persuasively established that the offered position can be classified other than as a management analyst, or that the minimum requirement for the position that the petitioner is offering is a bachelor's degree in either management or business administration. Accordingly, it is concluded that the petitioner has not demonstrated that the beneficiary qualifies to perform services in the specialty occupation of a management analyst.

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 not sustained that burden. Accordingly, the decision of the director will not be disturbed.

ORDER: The appeal is dismissed.