

Department of Homeland Security
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 Eye Street N.W.
Washington, D.C. 20536

File: LIN-02-137-53209 Office: Nebraska Service Center Date:

NOV 25 2003

IN RE: Petitioner:
Beneficiary:

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

IN BEHALF OF PETITIONER:

PUBLIC COPY

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 Citizenship and Immigration Services (CIS) 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the petition remanded for further consideration.

The petitioner is a manufacturer of pressed metal automotive products. It seeks to employ the beneficiary temporarily in the United States as its press technician. The director determined that the petitioner had not submitted sufficient documentation to warrant favorable consideration and on March 28, 2002, requested that the petitioner submit additional evidence to support its claim of the beneficiary's eligibility. The record reflects that the petitioner sent a timely response to the request for evidence that was received by the director on April 26, 2002. The petitioner's response included a letter from counsel describing the beneficiary's duties, a letter from Shruti Metaltech Private Limited discussing the beneficiary's qualifications, a business agreement between the foreign and United States entities, and a letter from the petitioner describing the beneficiary's qualifications and job duties.

On May 10, 2002, the director determined that the petitioner had not established that the beneficiary would be employed in a specialized knowledge capacity or that the beneficiary possessed specialized knowledge and denied the petition.

In his decision, the director stated, in pertinent part, that:

The petitioner's response [to the request for additional evidence] was limited to a memorandum discussing the beneficiary's duties. The record contains no substantive evidence to establish that the beneficiary's skills, or the proffered position qualify for specialized knowledge as contemplated by regulation.

On appeal, counsel states, in pertinent part, that:

The INS [CIS] Decision at page three states "[T]he petitioner's response [to the Request for Evidence] was limited to a memorandum discussing the beneficiary's duties."

Counsel states that the CIS failed to consider all of the evidence submitted and resubmits the evidence previously submitted. Counsel requests that the decision be withdrawn and that the petition be considered based on the entire record of proceedings.

In concurrence with counsel, this case will be remanded for the director to consider the petitioner's response to the Request for Evidence in accordance with 8 C.F.R. § 214.2(l)(9)(iii)(B). As

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

ORDER: The director's decision of May 10, 2002, is withdrawn. The petition is remanded to the director for entry of a new decision in accordance with the foregoing.