



U.S. Citizenship
and Immigration
Services

U.S. DEPARTMENT OF HOMELAND SECURITY
ADMINISTRATIVE APPEALS OFFICE
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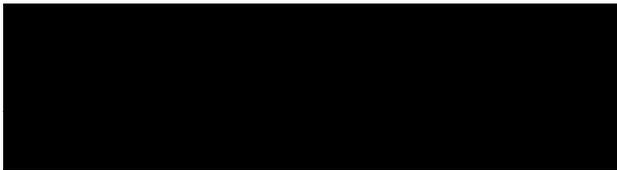


FILE: WAC-02-282-50509 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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)

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner states that it engages in the international trade of pharmaceuticals, cosmetics, and other products. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its President, pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner filed the petition on September 18, 2002. On June 20, 2003, the director denied the petition concluding that the petitioner did not establish that the beneficiary will be employed in the United States in a capacity that requires specialized knowledge. On July 18, 2003, the petitioner filed a motion to reopen/reconsider. On September 2, 2003, the director granted the motion to reopen/reconsider, and upon reconsidering the merits of the case, again concluded that the petitioner did not establish that the beneficiary will be employed in the United States in a capacity that requires specialized knowledge. On September 26, 2003, the petitioner filed the present appeal.

On the Form I-290B appeal, the petitioner states that "[t]he Service . . . did not explain the reasons for denial. The denial notice merely states evidence submitted and a conclusory denial statement. We believe that the evidence submitted, especially in the [motion to reopen/reconsider], was sufficient to show that the Beneficiary serves the Petitioner in a 'specialized knowledge' capacity." In the denial, the director noted that the beneficiary's training with the petitioner cannot be considered specialized knowledge. The director stated that "[t]he beneficiary's knowledge of [the petitioner's] product, or of the processes and procedures of [the petitioner], has not been show[n] to be substantially different from, or advance[d] in relation to, that of any corporate purchasing technician/marketing specialist." The director further provided that the petitioner failed to show that the beneficiary's duties are so intricate that only the beneficiary can implement them, calling into question whether the beneficiary's knowledge is unique to the petitioner or readily available in the labor market. The petitioner did not address these specific issues presented in the director's denial or assert that the director's decision was based on any erroneous conclusion of law or statement of fact. The petitioner failed to provide new evidence or documentation to support its assertions.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.