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FILE: EAC 05 065 52719 Office: VERMONT SERVICE CENTER Date: JUL 06 2007

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)

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 dismissed.

The petitioner, a Delaware corporation, claims to be engaged in computer software development and consultation. It seeks to temporarily employ the beneficiary as a junior finance executive in the United States and filed a petition to classify the beneficiary as a nonimmigrant intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director determined that the petitioner had not established that (1) the beneficiary had been employed abroad in a specialized knowledge position; or (2) the intended employment in the United States required specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner asserts that the director's decision constituted a misapplication of law and was arbitrary. In support of this position, a brief and additional evidence are submitted.

To establish L-1 eligibility, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). Specifically, within three years preceding the beneficiary's application for admission into the United States, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year. In addition, 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.

The regulation at 8 C.F.R. § 214.2(l)(3) further states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

This matter presents two related, but distinct, issues: (1) whether the beneficiary gained specialized knowledge during his employment abroad and was thus employed in a specialized knowledge position; and (2) whether the proposed employment is in a capacity that requires specialized knowledge.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the following:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines "specialized knowledge" as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

In a letter dated December 30, 2004, the petitioner advised that the beneficiary had been employed since November 1, 2002 as Executive for the Payroll and Travel & Expense Sector of the Finance Department. The petitioner claimed that his duties mainly consisted of processing payroll for the petitioner's 12,000 employees throughout India. With regard to his credentials, the petitioner stated that the beneficiary obtained a Bachelor's Degree in Commerce from the University of Madras in May 2001. Regarding the beneficiary's qualifications, the petitioner stated:

[The petitioner has] selected [the beneficiary] because he has the essential specialized and advanced knowledge of the advanced financial policies and procedures of [the foreign entity's] affiliate and such knowledge is critical to fulfilling the responsibilities of our position in the Payroll and Travel & Expense Sector of [the petitioner]. Due to the highly integrated nature of our U.S. and Indian operations, it is critical for [the petitioner] to employ individuals with the specialized knowledge of our Indian financial policies and procedures to settle payroll, Travel & Expense and employee loan matters for employees traveling back and forth between India and the United States. In addition, this specialized knowledge of our Indian operations is required in the U.S. for many aspects of our global enterprise software solution implementation. [The beneficiary] has also been playing a lead role in the company's Six Sigma processes relating to the payroll system. Finally, [the beneficiary] is working directly with management on compliance with the provisions of Section 404 of the Sarbanes Oxley Act. He therefore possesses unique knowledge of the company's compliance initiatives in this regard. The specialized knowledge of our financial policies and procedures can only be gained through prior experience with [the petitioner] and cannot be easily transferred or taught.

* * *

[The beneficiary's] two years of experience in the Finance Department of [the foreign entity] has given him specialized knowledge of certain essential financial policies, processes and procedures that are unique to [the petitioner]. For example, having worked in Travel & Expense, he has developed expertise in our policies regarding reimbursable travel expenditures for our employees, most of whom travel extensively as a routine part of their employment. For our company, which relies upon accurate presentation, payment and chargeback of employee travel expenses for client work, this specialized knowledge is absolutely critical to the handling of this function both in India and in the United States. There are detailed protocols to learn and apply in these circumstances, and the position in the U.S. requires an individual who has seen and dealt with many unusual travel expense scenarios and understands how [the petitioner] has handled them. Moreover, [the

beneficiary] understands both the Indian and U.S. payroll tax procedures and how the two interact in the case of internationally mobile employees, another key responsibility for our business. Moreover, in his handling of payroll for [the foreign entity] and for [offshore] operations, [the beneficiary] has developed irreplaceable knowledge of the protocols and procedures developed by [the organization] to ensure completion of payroll-related requirements in accordance with both Indian Accounting Standards and U.S. General Accounting Principles.

Regarding the proposed position in the United States, the petitioner stated:

[The beneficiary] will be working in the capacity of an Executive for the Payroll and Travel & Expense Sector of the Finance Department of [the petitioner]. In this position, [the beneficiary] will be responsible for payroll and Travel & Expense processing, employee tax administration, employee loans administration, payroll and benefits accounting, statutory compliance, reporting, monthly review of employee loans that are outstanding, collection follow up of employee advances, and monthly review of employee benefits. He will also be responsible for some of the key financial functions, including cash management, administration of our corporate apartment and corporate credit card program, generating reports for senior management, and maintaining financial records. [The beneficiary] will also participate in our implementation of a new global enterprise software solution.

The director found the initial evidence submitted with the petition insufficient to warrant a finding that the beneficiary possessed the required specialized knowledge and would be employed in the United States in a position that required specialized knowledge. Consequently, a detailed request for evidence was issued on January 12, 2005, which requested evidence that the beneficiary possesses specialized knowledge that was uncommon, noteworthy or distinguished by some unusual quality and not generally known by practitioners in the field. Specifically, the director requested documentary evidence of what exactly the beneficiary possessed specialized knowledge, including a statement as to whether other companies in the industry used similar methodologies. In addition, the director requested information pertaining to the training the beneficiary received while employed by the petitioner, as well as a definitive estimate of how the beneficiary actually acquired this specialized knowledge.

The petitioner responded on January 31, 2005. First, the petitioner clarified that contrary to the director's implications in the request for evidence, the beneficiary's position was not a position in the Information Technology sector. Rather, the petitioner explained that the beneficiary's position was an important administrative position with the finance department, and thus the beneficiary possessed specialized knowledge of the petitioner's internal tax, payroll, human resources, and financial systems and policies. He did not, therefore, possess specialized knowledge in a scientific process or methodology as implied by the director's request.

The petitioner also relied on a March 9, 1994 Guidance memorandum from James A. Puleo, Acting Executive Associate Commissioner, recently re-affirmed by a memorandum from Fujie Ohata, Associate Commissioner for Service Center Operations dated December 20, 2002, and claims that the language contained in the director's request was contrary to the points outlined in these memoranda. Specifically, the petitioner asserts that advanced knowledge and special knowledge are two distinct concepts, and that the beneficiary could qualify under either one of these criteria.

Regarding the director's request for additional evidence pertaining to the beneficiary's qualifications, the petitioner repeated most of the language set forth in the initial letter of support. However, it provided the following new information:

The beneficiary's specialized knowledge of our internal policies and protocols, combined with advanced knowledge of the PeopleSoft Financial software used by the company, distinguish the beneficiary [as] one of only a handful of [the petitioner's] employees who has the ability to tackle one of the critical aspects of the proposed employment in the United States. Specifically, [the petitioner] will be implementing PeopleSoft Financials on a global scale, using a single chart of accounts for all of our multinational operations. The successful implementation of this system for our U.S. operations is vital to the company's overall financial, accounting, reporting, and compliance functions. Consequently, knowledge of our existing financial systems and processes, and the use of PeopleSoft Financials in their implementation, represents an essential set of specialized skills and knowledge without which an individual would not be able to perform the duties of the proffered position. The beneficiary, as a direct result of his overseas experience with [the foreign entity], possesses this specialized knowledge at a highly advanced level. It is inconceivable to us that somebody without the beneficiary's overseas experience at [the foreign entity] could perform the duties of the proffered position.

In addition to his specialized and advanced knowledge related to the implementation of the new PeopleSoft Financials application on a global scale, the beneficiary possesses advanced knowledge of certain essential proprietary applications related to payroll and accounting. For example, Payroll Information System is a proprietary, custom designed, internal software package used to address our offshore and onsite financial mode. It addresses the processing of our flexible pay package (Budgeted Business Expenditure Plan), and is critical to the integrity of our multinational payroll and compensation system. The beneficiary is one of the principal users of this system within [the petitioner], and it is not possible for somebody outside [the petitioner] to possess experience with or knowledge of this system. Implementation of the Payroll Information System, and its integration with PeopleSoft Financials, will be a significant element in the beneficiary's proposed job duties, and he is unusually qualified to fill this role.

Although reference was made to the beneficiary's resume, the resume was not included in the response to the request for evidence.

Upon review of the evidence submitted, the director determined that the record failed to establish that the beneficiary possesses specialized knowledge or that the position of junior executive of finance required an employee with specialized knowledge as defined by the regulations. The director specifically noted that the petitioner had failed to show that the beneficiary's duties and training were significantly different from other similarly-qualified persons in the industry, and specifically noted that the length of time required to learn the required elements of the beneficiary's position was omitted. On appeal, counsel for the petitioner contends that the director implemented improper standards during adjudication, and that the evidence submitted clearly shows that the beneficiary's knowledge of the critical aspects of the petitioner's internal finance and account protocols is specialized and advanced.

On review, the record does not contain sufficient evidence to establish that the beneficiary possesses specialized knowledge or that the proposed employment would be in a specialized knowledge capacity.

When examining the specialized knowledge capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). As required in the regulations, the petitioner must submit a detailed description of the services to be performed sufficient to establish specialized knowledge. *Id.*

In the present matter, the petitioner provided a lengthy description of the beneficiary's employment in the foreign office and his responsibilities as a junior finance executive. However, despite this detailed overview, the petitioner failed to provide evidence regarding what exactly set the beneficiary's knowledge apart from other similarly trained administrators in the field and what training he had received to set him apart from other similarly qualified individuals in the petitioner's organization or in the industry at large. The petitioner has not sufficiently documented how the beneficiary's performance of his daily duties distinguishes his knowledge as specialized. In fact, the overview of duties suggests that the beneficiary occupies an administrative position, and provides no additional information as to why no other similarly trained or qualified individual could perform the same duties, particularly since it is a well-established fact that most companies today have a dedicated person or department to handle payroll administration and accounting.

Despite counsel's contention on appeal that the beneficiary possesses specialized and advanced knowledge of the petitioner's internal accounting and financial policies, there is insufficient evidence to conclude that this factor alone attributes him with specialized knowledge. The record contains no definitive evidence supporting the contention that the beneficiary's knowledge is uncommon and more advanced than similarly trained professionals in the field.

More importantly, however, is the fact that the record is devoid of evidence of any training that the beneficiary received during his employment with the petitioner. Furthermore, the claim that the beneficiary allegedly received specialized and advanced knowledge of critical aspects of the petitioner's finance and accounting protocols during his employment, without specific documentation explaining the manner and nature of this training, is subject to scrutiny. Although the beneficiary has worked for the foreign entity for twenty-six months, there is no evidence to show that this period of employment with the petitioner has resulted in specialized knowledge of something unique to the petitioner which other similarly-trained persons could not have gained from working in the industry in general.

The regulation at 8 C.F.R. § 214.2(l)(3)(viii) states that the director may request additional evidence in appropriate cases. Although specifically and clearly requested by the director, the petitioner failed to provide documentary evidence to support its claims that the beneficiary obtained a specialized level of knowledge through his work with the petitioner abroad, and that this knowledge was uncommon and distinctive from the knowledge and training of his colleagues. No documentation was submitted that distinguishes the beneficiary from other payroll administrators in the industry. Finally, no evidence of training exclusively offered to the beneficiary was provided, thereby rendering it unlikely that the beneficiary is the only administrative employee that is capable of administering the petitioner's payroll and managing the Travel & Expense Sector.

The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14). In this case, the petitioner relies on the AAO to accept its uncorroborated assertions that the beneficiary possessed specialized knowledge at the time of filing and thus was employed in a qualifying capacity abroad, both prior to adjudication and again on appeal. However, these assertions do not constitute evidence. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The petitioner provides no evidence of any training received by the beneficiary, and implies, essentially, that his training was received through his employment abroad. Furthermore, the petitioner fails to specifically clarify how the beneficiary possesses specialized knowledge of a methodology, application or process of the petitioner merely by being familiar with the petitioner's payroll and expense department. Although the petitioner claims that the beneficiary is familiar with PeopleSoft Financials, a software used by the petitioner, there is no claim, and no evidence to support a finding, that this software is a proprietary product of the petitioner. As a result, absent evidence to the contrary, there is nothing to suggest that other similarly-qualified persons in the industry, particularly those who hold administrative positions and are tasked with payroll management, are not equally familiar with this software or one like it. Although the petitioner does claim that Payroll Information System (PIS) is a proprietary software, and that its integration with PeopleSoft financial will play a crucial role in the petitioner's continued business operations, there is no additional evidence describing PIS, the length of time it has been in use, or the manner in which employees receive training in this system. There is also no indication in the record that a similarly-trained person, with a degree in commerce and twenty-six months of experience with the petitioner, is not equally familiar with these software applications and could not perform the same duties. The petitioner provides no evidence of specific training or instruction received by the beneficiary in methodologies used by the petitioner in his employment abroad. Regardless, the fact remains that the record does not demonstrate that the beneficiary possesses specialized knowledge of any process or methodology used and implemented by the petitioner. While his extensive familiarity with the petitioner's payroll, travel and expense sector certainly makes him a valuable asset to the company, there is nothing to suggest, other than a brief claim in the response to the request for evidence, that the beneficiary acquired specialized knowledge of any special or advanced methodology or procedure in the twenty-six months he has worked for the petitioner. There is no evidence to show that this period of employment with the petitioner has resulted in specialized knowledge of something special or advanced which other similarly-trained persons could not have gained from working for the petitioner or in the industry in general.

In this case, the petitioner and counsel rely on the AAO to accept its uncorroborated assertions that the beneficiary possessed specialized knowledge at the time of filing and thus was employed in a qualifying capacity abroad, both prior to adjudication and again on appeal. However, these assertions do not constitute evidence. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Furthermore, counsel and the petitioner ignore the fact that the chief basis for the director's denial was the petitioner's failure to discuss the nature and extent of training required to perform the duties of the beneficiary. Without definitive evidence as to the nature and more specifically the length of time required to train a person for the duties of the position, the petitioner has failed to satisfy the burden of proof in this proceeding.

Furthermore, the petitioner's unsupported claim that the beneficiary obtained his specialized knowledge during his twenty-six months of employment abroad raises some questions regarding whether the beneficiary was actually employed abroad in a specialized knowledge capacity for one continuous year out of the three years immediately preceding the filing of the petition. See 8 C.F.R. § 214.2(l)(3)(iii). As discussed above, the manner in which his knowledge was allegedly gained is unclear, since the petitioner failed to supplement the record with details regarding the exact nature of the beneficiary's training or on-the-job experience. As a result, the AAO is unable to determine if and at what point the beneficiary actually acquired specialized knowledge. It is impossible, therefore, to calculate whether the beneficiary worked for one full continuous year in a specialized knowledge capacity. If, as the petitioner claims, the beneficiary gained his specialized knowledge from his day-to-day employment with the petitioner, it stands to reason that the beneficiary did not possess specialized knowledge when he commenced his employment abroad twenty-six months ago. The

petitioner's failure to provide sufficient evidence of the beneficiary's training and experience renders it impossible to conclude that at least twelve consecutive months out of the beneficiary's twenty-six months of employment abroad were in a specialized knowledge capacity. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

It should be noted, however, that according to the petitioner's letter dated December 30, 2004, the beneficiary "[had] been continually employed abroad with [the foreign entity] in a specialized-knowledge capacity continuously since November 2002." This claim, however, directly contradicts the petitioner's claims that the beneficiary's specialized knowledge was acquired as a result of on-the-job training and work experience with the petitioner and its processes, specifically PIS and its integration with the PeopleSoft Financials software. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

It is also appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary's knowledge of the business's product or service, management operations, or decision-making process. *Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618 (R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)).¹ As stated by the Commissioner in *Matter of Penner*, 18 I&N Dec. 49, 52 (Comm. 1982), when considering whether the beneficiaries possessed specialized knowledge, "the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought." Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily for his ability to carry out a key process or function which is important or essential to the business firm's operation.

Id. at 53.

¹ Although the cited precedents pre-date the current statutory definition of "specialized knowledge," and counsel raises that very argument with regard to the director's reliance on *Matter of Penner* in support of the denial, the AAO finds them instructive. Other than deleting the former requirement that specialized knowledge had to be "proprietary," the 1990 Act did not significantly alter the definition of "specialized knowledge" from the prior INS interpretation of the term. The 1990 Committee Report does not reject, criticize, or even refer to any specific INS regulation or precedent decision interpreting the term. The Committee Report simply states that the Committee was recommending a statutory definition because of "[v]arying [*i.e.*, not specifically incorrect] interpretations by INS," H.R. Rep. No. 101-723(I), at 69, 1990 U.S.C.C.A.N. at 6749. Beyond that, the Committee Report simply restates the tautology that became section 214(c)(2)(B) of the Act. *Id.* The AAO concludes, therefore, the cited cases, as well as *Matter of Penner*, remain useful guidance concerning the intended scope of the "specialized knowledge" L-1B classification.

In the present matter, the evidence of record demonstrates that the beneficiary is more akin to an employee whose skills and experience enable him to provide a specialized service, rather than an employee who has unusual duties, skills, or knowledge beyond that of an educated and/or skilled worker. Moreover, the petitioner's failure to submit an overview of the beneficiary's training or the nature in which he acquired specialized skills that set him apart from others creates a presumption of ineligibility. What remains unclear is why the beneficiary's knowledge is so specialized and unique, as alleged by the petitioner, despite the fact that he apparently has received no formal training and gained his knowledge merely by working in the petitioner's payroll and expense department. It is not unreasonable, therefore, to conclude that other similarly trained persons in the area of office administration have also become familiar with administering payroll, managing expenses, and most importantly, using a generally-known software such as PeopleSoft Financials. Again, since the petitioner has failed to demonstrate a specific methodology or process unique to the petitioner of which the beneficiary has obtained specialized knowledge, it is reasonable to conclude that other similarly trained persons could achieve the same level of knowledge as the beneficiary by simply working as a financial administrator in the industry for twenty-six months.

It should be noted that the statutory definition of specialized knowledge requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. The term "specialized knowledge" is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc. v. Attorney General*, "[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning." 745 F. Supp. 9, 15 (D.D.C. 1990). The Congressional record specifically states that the L-1 category was intended for "key personnel." See generally H.R. Rep. No. 91-851, 1970 U.S.C.C.A.N. 2750. The term "key personnel" denotes a position within the petitioning company that is "of crucial importance." *Webster's II New College Dictionary* 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered "important" to a petitioner's enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of "crucial importance" or "key personnel" must rise above the level of the petitioner's average employee. Accordingly, based on the definition of "specialized knowledge" and the congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between that employee and the remainder of the petitioner's workforce.

On appeal, counsel for the petitioner requites many of the previously-submitted statements relating to the beneficiary's qualifications, and claims that based on these statements, there is no justification for the director's bases for the denial. The AAO finds these contentions unpersuasive. As previously discussed, the petitioner has submitted no independent evidence of the training and/or the length of time it took for the beneficiary to gain this alleged special or advanced knowledge of the petitioner's finance and accounting protocols. Nor has the petitioner shown that other similarly-qualified administrators in the industry are not familiar with PeopleSoft Financials software. Finally, although it claims that PIS is a proprietary application, no other evidence to support the petitioner's one paragraph discussion of this application in the response to the request for evidence, has been submitted. This lack of tangible evidence makes it impossible to classify the beneficiary's knowledge of the petitioner's business products and procedures as advanced and precludes a finding that the beneficiary's role is of crucial importance to the organization. As previously stated, simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Furthermore, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The claim that the beneficiary has specialized knowledge remains unsupported due to the failure to submit any documentation that the alleged on-the-job experience he received in twenty-six months made him an expert in the areas claimed. While the beneficiary's skills and knowledge may contribute to the successfulness of the petitioning organization, this factor, by itself, does not constitute the possession of specialized knowledge. Therefore, while the beneficiary's contribution to the economic success of the petitioner may be considered, the regulations specifically require that the beneficiary possess an "advanced level of knowledge" of the *organization's* process and procedures or a "special knowledge" of the *petitioner's* product, service, research, equipment, techniques, or management. 8 C.F.R. § 214.2(I)(1)(ii)(D). Mere skill and knowledge in the sector in general does not constitute specialized knowledge for purposes of this matter. As determined above, the beneficiary does not satisfy the requirements for possessing specialized knowledge.

The legislative history for the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. *See 1756, Inc.*, 745 F. Supp. at 16. Based on the evidence presented, it is concluded that the beneficiary does not possess specialized knowledge, was not employed abroad in a position involving specialized knowledge, and would not be employed in a capacity requiring specialized knowledge. For these reasons, the appeal will be 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. Here, that burden has not been met.

ORDER: The appeal is dismissed.