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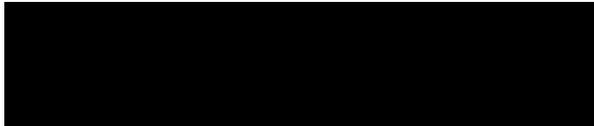
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FILE: EAC 04 094 52398 Office: VERMONT SERVICE CENTER Date: AUG 17 2005

IN RE: Petitioner:
Beneficiary:



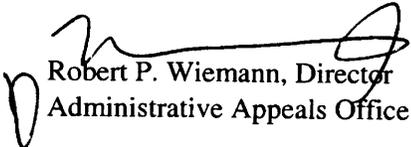
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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, Director
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 summarily dismissed.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as an L-1B 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 petitioner is a New York limited liability company that intends to operate an Indian restaurant chain in the United States. The petitioner claims to be a subsidiary of [REDACTED] located in Chennai, India. The petitioner seeks to employ the beneficiary as a [REDACTED] specialist chef in its new office for a three-year period.

The director denied the petition concluding that the petitioner had not established that the beneficiary has specialized knowledge or that he would be employed in position requiring specialized knowledge.

The petitioner subsequently filed an appeal. On the Form I-290B appeal submitted on June 28, 2004, counsel for the petitioner states:

An appeal may be filed either with new evidence or if there is a misapplication of the law and the regulations. In the instant case, the Service simply does not understand the specialized nature of the position because of lack of familiarity. We will submit a brief with a more detailed exposition of the specialized nature of the job duties of the position and expert testimony from India. Since some of the information is coming from abroad we require the additional time.

Counsel indicated that a brief would be submitted to the AAO within 45 days. On August 2, 2005, the AAO sent to counsel by facsimile a request for the brief and/or additional evidence in support of the appeal. The AAO provided counsel five business days within which to respond. As of this date, the record does not contain a supplemental brief or evidence. Therefore, the record will be considered complete.

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. Counsel's general statement that the director "does not understand the specialized nature of the position because of lack of familiarity" fails to adequately address the director's stated grounds for denial of the petition. Counsel's general objections to the denial of the petition, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well founded and logical conclusions the director reached based on the evidence submitted by the petitioner.

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 counsel 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. Here, the petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.