



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 29913658

Date: FEB. 20, 2024

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (Religious Worker – R-1)

The Petitioner, a Sikh temple, seeks to classify the Beneficiary as a nonimmigrant religious worker (R-1) to perform services as a priest. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This R-1 nonimmigrant classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers, in religious vocations, or in other religious occupations in the United States.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish that the Beneficiary qualifies as a minister, as defined in 8 C.F.R. § 214.2(r)(3). The Director also concluded that the Petitioner did not establish either its intent to compensate per 8 C.F.R. § 214.2(r)(11) or the Beneficiary’s compensation during his previous R-1 employment per 8 C.F.R. § 214.2(r)(12). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Nonprofit religious organizations may petition for foreign nationals to work in the United States for up to five years to perform religious work as ministers, in religious vocations, or in religious occupations. The petitioning organization must establish, among other requirements, that the foreign national beneficiary has been a member of a religious denomination for at least the two-year period before the date the petition is filed and will be coming to work at least in a part time position (average of at least 20 hours per week). *See generally* section 101(a)(15)(R) of the Act; 8 C.F.R. § 214.2(r).

The regulation at 8 C.F.R. § 214.2(r)(1)(iii) specifies that a petitioner must demonstrate that the beneficiary is “coming [to the United States] solely as a minister or to perform a religious vocation or occupation.” The regulation at 8 C.F.R. § 214.2(r)(3) provides the following relevant definitions of a minister:

Minister means an individual who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;
- (B) Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- (C) Performs activities with a rational relationship to the religious calling of the minister; and
- (D) Works solely as a minister in the United States which may include administrative duties incidental to the duties of a minister.

Furthermore, the regulation at 8 C.F.R. § 214.2(r)(10) lists the following required evidence a petitioner must submit to establish that an individual qualifies as a minister:

Evidence relating to the qualifications of a minister. If the alien is a minister, the petitioner must submit the following:

- (i) A copy of the alien's certificate of ordination or similar documents reflecting acceptance of the alien's qualifications as minister in the religious denomination; and
- (ii) Documents reflecting acceptance of the alien's qualification as a minister in the religious denomination, as well as evidence that the alien has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts, curriculum, and documentation that establishes that the theological education is accredited by the denomination, or
- (iii) For denominations that do not require a prescribed theological education for a minister, the following evidence is required:
 - (A) The denomination's requirements for ordination to minister;
 - (B) The duties allowed to be performed by virtue of ordination;
 - (C) The denomination's levels of ordination, if any; and
 - (D) The alien's completion of the denomination's requirements for ordination.

II. ANALYSIS

The Petitioner filed the instant petition for a change of employer and extension of status to employ the Beneficiary as a Sikh priest. The initial petition included a letter dated March 20, 2023, written by the signatory and president of the petitioning organization. In this letter, the Petitioner explained that the Sikh religion's requirements to become a clergy are: 1) religious education; 2) at least one year experience as Granthi (Sikh Preacher); 3) tasting of Amrit (Special Holy Water); and 4) having five required articles of the Sikh faith or *Kakar*.

However, the initial filing did not contain corroborating and independent evidence to support the assertions made by the signatory, such as the Beneficiary's ordination certificate, credentials for religious education, or other documents detailing the denomination standards for ministerial ordination. The only document relevant to the Beneficiary's qualification as a minister was an experience letter from abroad stating that the Beneficiary worked as a Granthi in India from 2010 to November 17, 2018. Although the Director's request for evidence (RFE) asked for additional evidence regarding the Beneficiary's qualification as a minister, the Petitioner did not respond with additional evidence on this issue. The Director then concluded that the Beneficiary does not qualify as a minister pursuant to 8 C.F.R. § 214.2(r)(3).

On appeal, the Petitioner asserts that “[d]uring the previous R1 petition, he met the burden of proof to meet this qualification” and “[n]othing has changed since then.” However, the Petitioner has not referenced any regulation or policy to support that the Beneficiary's prior approval of R-1 nonimmigrant status automatically establishes eligibility for this change of employer petition. Each petition is separate and independent and must be adjudicated on its own merits under the corresponding statutory and regulatory provisions. We also note that USCIS is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r 1988).

With the appeal, the Petitioner submits a copy of the Beneficiary's certificate from the [redacted] [redacted] which states that he “has been studying in this [redacted] from 15-May-1980 to 11-June-1985.” As the Petitioner did not previously submit this document to the Director in its initial filing or after the Director had specifically requested in the RFE, we will not consider the certificate submitted on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if “the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal for any purpose” and that “we will adjudicate the appeal based on the record of proceedings” before the Director); *see also Matter of Obaigbena*, 19 I&N Dec. 533, 537 (BIA 1988).

Even if we considered this educational certificate, the Petitioner still has not complied with the regulations at 8 C.F.R. § 214.2(r)(10) as the record does not contain the Beneficiary's certificate of ordination or documents reflecting acceptance of the Beneficiary's qualifications as a minister in the religious denomination, such as evidence that the [redacted] is an accredited theological institution normally required or recognized by that religious denomination, or transcripts or curriculum

from the university demonstrating that such religious education meets the denominational standards.¹ Therefore, the Petitioner has not provided sufficient evidence that the Beneficiary meets the definition of an ordained minister.²

Based on the foregoing, the Petitioner has not established eligibility for the benefit sought, and we will reserve our opinion on the Director's finding that the Petitioner did not demonstrate its intent to compensate the Beneficiary as it would not change the outcome of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n. 7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

Furthermore, we do not have jurisdiction to address the Director's finding that the Petitioner did not establish the Beneficiary's compensation during his previous R-1 employment as 8 C.F.R. § 214.2(r)(12) applies to an application for an extension of stay as an R-1 nonimmigrant religious worker. An application for extension of stay is concurrent with, but separate from, the R-1 nonimmigrant petition and the regulation at 8 C.F.R. § 214.1(c)(5) makes clear that there is no appeal from a denial of an application for extension of stay. We therefore decline to address the issue regarding evidence of previous R-1 employment.

III. CONCLUSION

The Petitioner has not established, by a preponderance of the evidence, eligibility to classify the Beneficiary as an R-1 nonimmigrant religious worker. Specifically, the record does not demonstrate that the Beneficiary qualifies as a minister according to 8 C.F.R. § 214.2(r)(3). It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Here, the Petitioner has not met this burden.

ORDER: The appeal is dismissed.

¹ The Petitioner asserted that the denomination requires "religious education" or some type of a prescribed theological education and delineated the denomination's requirements of a Sikh priest. Therefore, 8 C.F.R. § 214.2(r)(10)(iii) does not apply here.

² The Petitioner did not assert or provide evidence that the Beneficiary's position is a religious vocation or occupation.