



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

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

MATTER OF P-T-G-, INC.

DATE: APR. 6, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, an IT consulting firm, seeks to temporarily employ the Beneficiary as a “Senior SAP Basis Consultant” under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director, California Service Center, denied the petition. The Director concluded that the Petitioner had not demonstrated that the Beneficiary is qualified to work in a specialty occupation.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the evidence is sufficient to show that the Beneficiary is qualified to work in a specialty occupation by virtue of his “equivalent U.S. Bachelor’s degree in Computer Information Systems.” Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term “specialty occupation” as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The degree referenced by section 214(i)(1)(B) of the Act, 8 U.S.C. § 1184(i)(1)(B), means one in a specific specialty that is characterized by a body of highly specialized knowledge that must be theoretically and practically applied in performing the duties of the proffered position.

A bachelor's degree does not, *per se*, qualify a beneficiary for employment in a specialty occupation. Rather, the position must require a degree in a specific specialty. *Cf. Matter of Michael Hertz, Assocs.*, 19 I&N Dec. 558,560 (Comm'r 1988). Further, the beneficiary must have a degree in that specific specialty. *See Matter of Ling*, 13 I&N Dec. 35 (R.C. 1968).

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states that an individual applying for classification as an H-1B nonimmigrant worker must possess:

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C)
 - (i) experience in the specialty equivalent to the completion of such degree, and
 - (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

In implementing section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(C) states that an individual must meet one of the following criteria in order to qualify to perform services in a specialty occupation:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have [a] education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and [b] have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

In addition, 8 C.F.R. § 214.2(h)(4)(v)(A) states:

(b)(6)

Matter of P-T-G-, Inc.

General. If an occupation requires a state or local license for an individual to fully perform the duties of the occupation, an alien (except an H-1C nurse) seeking H classification in that occupation must have that license prior to approval of the petition to be found qualified to enter the United States and immediately engage in employment in the occupation.

Therefore, to qualify a beneficiary for classification as an H-1B nonimmigrant worker under the Act, the petitioner must establish that the beneficiary possesses the requisite license or, if none is required, that he or she has completed a degree in the specialty that the occupation requires. Alternatively, if a license is not required and if the beneficiary does not possess the required U.S. degree or its foreign degree equivalent, the petitioner must show that the beneficiary possesses both (1) education, specialized training, and/or progressively responsible experience in the specialty equivalent to the completion of such degree, and (2) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

II. BENEFICIARY QUALIFICATIONS

A. Facts

In its letter of support, the Petitioner stated that the proffered position requires at least a bachelor's degree in computer science or a related field.

With the visa petition, the Petitioner provided transcripts and diplomas showing that the Beneficiary received a three-year "Bachelor of Science" degree and a two-year "Master of Business Administration" degree from [REDACTED] in India.

The Petitioner also submitted employment verification letters as evidence of the Beneficiary's work experience dating between September 1996 and March 2015. Certificates pertinent to training the Beneficiary received in various computer-related subjects, including various types and levels of SAP training, were also submitted by the Petitioner.

An evaluation prepared by [REDACTED] an evaluator for [REDACTED] which was submitted with the visa petition, states that the Beneficiary's education in India is equivalent to a "Master of Business Administration" degree awarded by a U.S. institution.

The Director issued a request for evidence (RFE) in this matter requesting evidence pertinent to the Beneficiary's qualifications to serve in a specialty occupation. In response, the Petitioner submitted, *inter alia*, another evaluation of the Beneficiary's qualifications prepared by [REDACTED] of the Department of Statistics and Computer Information Systems, [REDACTED]. It states that the Beneficiary's education, combined with his training and coursework, are equivalent to a bachelor's degree with a dual major in management information systems and business administration. The Petitioner also provided a letter from an associate dean at the [REDACTED] stating

(b)(6)

Matter of P-T-G-, Inc.

that [REDACTED] “has gained experience” in evaluating training, work experience, and foreign education. It further states:

Professors and instructors like [REDACTED] issue recommendations regarding the granting of credit (based upon factors such as duration, complexity, correlation to particular subjects, etc.), and the credit is subsequently conferred by University administrators or registrars (who have no special knowledge of, or insight into, the field that is being evaluated, but who are responsible for the granting of credit in the student transcript). Professors such as [REDACTED] perform the actual analysis of the experience for which credit is granted, and are instrumental to the credit-granting process.

The Director denied the visa petition finding that the evidence provided did not demonstrate that the Beneficiary is qualified for classification as a specialty occupation worker.

On appeal, the Petitioner submitted a third evaluation. That evaluation was prepared by [REDACTED], an associate professor of computer applications and information systems at the [REDACTED] Connecticut. It states that the Beneficiary’s training, work experience, and foreign education, considered together, are equivalent to a U.S. bachelor’s degree in computer information systems.

A letter, dated August 20, 2015, from the dean of the [REDACTED] at the [REDACTED] states:

In his capacity as Associate Professor of Computer Applications and Information Systems, [REDACTED] authorizes the granting of “life experience” credits through the [REDACTED] in Accelerated Learning”) degree completion program offered through the [REDACTED]

B. Analysis

Upon review of the evidence in the record, including evidence submitted on appeal, we find that the Petitioner has not established that the Beneficiary qualifies for classification as a specialty occupation worker.

The Beneficiary does not meet either of the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(C)(1) and (3), as there is no evidence of a U.S. accredited college or university baccalaureate or higher degree, or of an unrestricted state license, registration or certification which authorizes him to fully practice and be immediately engaged in a specialty occupation in the state of intended employment.

The Petitioner also has not established that the Beneficiary is qualified to serve in a specialty occupation under the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(C)(2) for an individual holding a foreign

(b)(6)

Matter of P-T-G-, Inc.

degree determined to be equivalent to a U.S. accredited college or university baccalaureate or higher degree required by the pertinent specialty occupation. Of the three evaluations provided, only the evaluation by [REDACTED] is based on the Beneficiary's education alone, without consideration of the Beneficiary's other training or employment experience. That evaluation states that the Beneficiary has the equivalent of a "Master of Business Administration" degree. The Petitioner has not demonstrated that such a degree is equivalent to a bachelor's degree in computer science or a related field, which the Petitioner stated it requires for the proffered position.¹

Next, in order to equate a beneficiary's credentials to a U.S. baccalaureate or higher degree under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4), the provisions at 8 C.F.R. § 214.2(h)(4)(iii)(D) require one or more of the following:

- (1) An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience;
- (2) The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSI);
- (3) An evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials;
- (4) Evidence of certification or registration from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty;
- (5) A determination by the Service that the equivalent of the degree required by the specialty occupation has been acquired through a combination of education, specialized training, and/or work experience in areas related to the specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience. . . .

With regard to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(1), we find that the record does not establish that the evaluators who have opined on the educational equivalency of the Beneficiary's work experience are officials who have "authority to grant college-level credit for training and/or

¹ In fact, a degree with a generalized title, such as business administration, without further specification, is not a degree in a specific specialty. *Cf. Matter of Michael Hertz Assocs.*, supra. As such, if the Beneficiary's foreign education is equivalent only to an otherwise undifferentiated degree in business administration, it does not qualify him to work in any specialty occupation.

(b)(6)

Matter of P-T-G-, Inc.

experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience," as required by this criterion.

The evaluation from [REDACTED] states that he holds posts at various colleges and universities, but it is not accompanied by any indication that he has the authority to grant college-level credit for training or work experience at any of them.

The letter that accompanied the evaluation from [REDACTED] states that [REDACTED] evaluates training and experience and has gained experience in making determinations regarding granting of credit for them. It does not indicate that [REDACTED] has authority to grant that credit.

Thus, neither [REDACTED] nor [REDACTED] who provided opinions pertinent to the equivalency of the Beneficiary's training, work experience, and foreign education have been shown, pursuant to the requirements of 8 C.F.R. § 214.2(h)(4)(iii)(D)(I), to be competent to render those opinions.

With respect to the evaluation from [REDACTED] that evaluation states that it is based on a review of the Beneficiary's diplomas, transcripts, employment verification letters, and resume. The evaluation, however, mirrors the Beneficiary's claims regarding his work experience, but the evaluation is not supported by the evidence provided by the Beneficiary's past employers. [REDACTED] evaluation appears to be based on the Beneficiary's own assertions, rather than on the employment verification letters provided or any other evidence in the record. We find that the Beneficiary's own assertions pertinent to his work experience are an insufficient basis for [REDACTED] finding that the Beneficiary's employment experience is equivalent to a bachelor's degree in computer information systems.

None of the employment verification letters provided contain sufficient detail pertinent to the substantive nature of the work the Beneficiary performed. They are insufficient, even in combination with the Beneficiary's education, to show that he has the equivalent of a bachelor's degree in computer science or a closely-related field. For instance, the body of the employment verification letter from [REDACTED] states, in its entirety:

This is to certify that [the Beneficiary] had worked as a SAP BASIS CONSULTANT from April 2001 to July 2004.

During his tenure he was actively involved in various Upgrade and Support projects. His performance has been above expectations. He was found to be sincere, hardworking and having an overall expertise in his module.

We wish him all the success for his future endeavors.

(b)(6)

Matter of P-T-G-, Inc.

The Beneficiary's résumé divides that employment into three different sets of duties. It states that the Beneficiary worked from April 2001 to May 2002 as an SAP Technical Associate performing the following duties:

Maintained 2 system landscape, Performed Transports, Analyzing System errors and ABAP Dumps, Database monitoring for space utilization. Applying required Packages and kernel upgrade, Client copy & Client Deletion, Created authorizations and profiles using the profile generator tool, Reporting problems to OSS and solving the problems., Configured R/3 system to communicate with OSS, Configured Printers, **Performed upgrade from SAP R/3 4.6B to 4.6C SR2**

The resume states that from June 2002 to November 2003, the Beneficiary worked as an SAP Basis Administrator with the following duties:

SAP security activity, group maintenance and modification, change and transport system, user management, Spool Management, print trouble shooting, installing SAPGUI, patch uploading, client copy, kernel upgrade, performance tuning, backup & performance monitoring of R/3 4.6B, Oracle Database 8.1.7.4, OS WinNT 4.0.

The resume states that from December 2003 to July 2004, the Beneficiary worked as an SAP Basis Consultant with the following duties:

Responsible for Basis Up gradation to 4.7 Enterprise and support for their R/3 System Landscape Performed system Study of the existing landscape , Recommended requirements for upgrade, Created project plan for upgrade, performed system copy & Performed test upgrade, upgraded Oracle 8.0 to 9.2.0.1 upgrade, performed upgrade on Win4.0 to Win 2000 sp2, performed upgrade from 4.0B to 4.7 Enterprise and post upgrade support.

Thus, while the Beneficiary's resume describes work experience in detail, the evidence provided by [REDACTED] offers almost no support for the Beneficiary's claims.

As to the Beneficiary's work for [REDACTED] stated:

[The Beneficiary's] responsibilities included maintained system landscape, performing transports, analyzing System errors and ABAP Dumps, performing database monitoring for space utilization, applying required Packages and kernel upgrades, creating authorizations and profiles using the profile generator tool, reporting problems to OSS and solving the problems, configuring R/3 system to communicate with OSS, configuring printers, performing upgrade from SAP R/3 4.68 to 4.6 C SR2, participating in SAP security activities, performing group maintenance and modification, conducting user management and Spool Management, installing

(b)(6)

Matter of P-T-G-, Inc.

SAPGUI, performing performance tuning, backup and performance monitoring of R/3 4.6B, Oracle Database 8.1.7.4, and OS WinNT 4.0., being responsible for Basis Up gradation to 4.7 Enterprise and support for their R/3 System Landscape, performing system study of the existing landscape, recommending requirements for upgrades, creating project plans for upgrades, and other related duties. The experience gained by [the Beneficiary] while working for [REDACTED] can be considered commensurate with Computer Information Systems-related course work in Introduction to Oracle & SQL, Database Systems, Project Management – Information Systems, Computer Software Applications, and other related areas.

[REDACTED] evaluation of the Beneficiary's work experience for his other employers similarly mirrors the Beneficiary's claims, but is not supported by the evidence provided by the Beneficiary's past employers. Thus, [REDACTED] evaluation appears to be predicated on the Beneficiary's own assertions, rather than on the employment verification letters provided or any other evidence in the record. We find that the Beneficiary's own assertions pertinent to his work experience are an insufficient basis for [REDACTED] finding that the Beneficiary's employment experience is equivalent to a bachelor's degree in computer information systems.

The criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(D)(2) and (4) are not factors in this proceeding, as the record contains no evidence related to them.

The regulation at 8 C.F.R. § 214.2(h)(4)(iii)(D)(3) pertains *only* to evaluations of education alone, without consideration of other training or of work experience. The letter from [REDACTED] purports to be such an evaluation. The other two evaluations do not. As was explained above, [REDACTED] evaluation does not indicate that the Beneficiary is qualified to work in the proffered position. The record contains insufficient evidence to show that the Beneficiary is qualified for the proffered position pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D)(3).

The remaining criterion for review is 8 C.F.R. § 214.2(h)(4)(iii)(D)(5). It allows recognition of a beneficiary's qualification by a U.S. Citizenship and Immigration Services (USCIS) determination that his or her training or work experience is equivalent to U.S. baccalaureate coursework in a specific specialty. This criterion provides that, for each year of college-level training a beneficiary lacks:

[I]t must be clearly demonstrated [1] that the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; [2] that the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and [3] that the alien has recognition of expertise in the specialty evidenced by at least one type of documentation such as:

- (i) Recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation²;
- (ii) Membership in a recognized foreign or United States association or society in the specialty occupation;
- (iii) Published material by or about the alien in professional publications, trade journals, books, or major newspapers;
- (iv) Licensure or registration to practice the specialty occupation in a foreign country; or
- (v) Achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

Neither the skeletal letters from the Beneficiary's former employers nor any other evidence of record demonstrates the extent of the theoretical and practical application of specialized knowledge in any specialty that was involved in the Beneficiary's work; that the Beneficiary's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in any particular specialty occupation; or that the Beneficiary has recognition of expertise in any specialty, as evidenced by at least one type of documentation such as those listed in this criterion. Even the Beneficiary's own self-certification contains insufficient information for a finding pertinent to the qualifications of his peers, supervisors, and subordinates or his recognition of expertise through one of those types of documentation. Consequently, the Petitioner has not established that the Beneficiary satisfies the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(5).

The petition does not establish that the Beneficiary is qualified to serve in any specialty occupation requiring an academic concentration or major in a computer-related specialty. The petition must be denied and the appeal dismissed because the evidence is insufficient to show that the Beneficiary is qualified under 8 C.F.R. §§ 214.2(h)(4)(iii)(C) and (D).

III. CONCLUSION

The evidence of record does not demonstrate that the Beneficiary is qualified to perform the duties of a specialty occupation position in a computer-related field. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the

² *Recognized authority* means a person or organization with expertise in a particular field, special skills or knowledge in that field, and the expertise to render the type of opinion requested. A recognized authority's opinion must state: (1) the writer's qualifications as an expert; (2) the writer's experience giving such opinions, citing specific instances where past opinions have been accepted as authoritative and by whom; (3) how the conclusions were reached; and (4) the basis for the conclusions supported by copies or citations of any research material used. 8 C.F.R. § 214.2(h)(4)(ii).

Matter of P-T-G-, Inc.

Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013) (citing *Matter of Brantigan*, 11 I&N Dec. 493, 495 (BIA 1966)). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of P-T-G-, Inc.*, ID# 16060 (AAO Apr. 6, 2016)