



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

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

In Re: 33769713

Date: SEP. 12, 2024

Motion on Administrative Appeals Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner, a company intending to operate a computer consulting business, seeks to temporarily employ the Beneficiary as vice president of its new office under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity, including its affiliate or subsidiary, to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the California Service Center denied the petition, concluding the record did not establish that: (1) a qualifying employer continuously employed the Beneficiary abroad for at least one year in the three years preceding the date the petition was filed; (2) a qualifying employer employed the Beneficiary outside the United States in a managerial or executive capacity; and (3) the new office would be able to support a managerial or executive position within one year of an approval of the petition. The Petitioner later filed an appeal that we dismissed. The matter is now before us on a motion to reopen.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

In denying the Petitioner's appeal, we agreed with the Director's conclusion that the Petitioner did not establish the Beneficiary was employed abroad in a managerial or executive capacity.<sup>1</sup> We reasoned that the duties submitted for the Beneficiary were generic, including no specific discussion of the foreign employer's business or his actual daily tasks. We also emphasized that the Petitioner did not submit a full organization chart, but only an employee list without chains of authority. We further pointed to a submitted partnership agreement reflecting no responsibilities for the Beneficiary and an

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<sup>1</sup> We reserved the Director's two other bases for denying the petition since this issue was dispositive. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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).

Indian tax document not showing his signature, leaving question as to its assertion that he was responsible for managing the foreign employer's financial operations. In addition, we indicated that the Petitioner submitted little information and independent evidence to substantiate his asserted managerial or executive capacity within the foreign employer, despite the Director requesting this additional evidence in the request for evidence (RFE), including a more detailed duty description including his actual daily tasks.

On motion, the Petitioner asserts we erred in our conclusion that it did not submit new information or evidence related to the Beneficiary's claimed employment abroad. The Petitioner indicates that it submitted the Beneficiary's resume, Indian income tax documentation, foreign employer audited financial statements, and a partnership agreement. The Petitioner asserts that the Beneficiary is responsible for overseeing the company's accounting, including reviewing financial and profit and loss statements, balance sheets, cash flow, and employment, tax, and sales reports. It further indicates that the Beneficiary has discretionary authority to hire, promote, dismiss or demote any subordinate employee. The Petitioner states that these tasks "require a minimum of 5 years experience and a Bachelor Degree [*sic*] and are far beyond the scope of a generic worker of even a supervisor," further noting that this "far exceeds the requirements to serve as a Supervisor or Manager."

It is noteworthy that the Petitioner still does not provide a detailed explanation of the Beneficiary's daily duties abroad including percentages of time he spent on each task, evidence directly requested by the Director. The Petitioner also vaguely stated that the Beneficiary reports to a president and that branch managers are supervised by the vice president. It still does not provide a comprehensive foreign organizational chart listing all employees and chains of authority, as requested by the Director and discussed in our prior decision. The Petitioner further provides no additional supporting documentation reflecting him acting in his asserted role abroad as vice president. The Petitioner continues to not submit this required supporting documentation even after it was requested by the Director and directly discussed in our prior decision. 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). Further, the Petitioner's generic statement that the Beneficiary's position requires a bachelor's degree is not relevant to establishing his eligibility for the benefit sought. The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion, but only refers to evidence we have already reviewed and discussed in our prior decision. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

**ORDER:** The motion to reopen is dismissed.