



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

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

In Re: 28820290

Date: NOV. 01, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a human development specialist, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional or an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this classification. See Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that although the Petitioner established eligibility for the underlying second preference classification, she did not establish eligibility for a national interest waiver under the framework outlined in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). 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.

On appeal, the Petitioner states verbatim that the Director's decision "was extremely generic, vague, which avoid the right of contest, as well as the decision did not cite lack of evidence or even the real reason why the application was denied." While we acknowledge this contention, the Petitioner did not provide any specific examples of where or how this occurred in the Director's decision. We reviewed the decision and do not find support for the Petitioner's assertion. The Director discussed multiple pieces of evidence individually and quoted material in the record in several instances. Additionally, the Director identified multiple deficiencies in the evidence and explained specifically why the evidence did not establish the Petitioner's eligibility under the *Dhanasar* framework.

In fact, we adopt and affirm the Director's decision as it relates to the Petitioner's eligibility under the *Dhanasar* framework. See *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); see also *Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). The Director acknowledged the Petitioner's assertion that her specific

services “deeply differ from the ones generally provided by ordinary [h]uman [d]evelopment [s]pecialists” and “have been the key to several companies’ triumph . . . .” The Director explained why the evidence did not substantiate such an assertion. Nevertheless, the Petitioner restates this claim on appeal without addressing the identified deficiencies. Like the Director, we conclude the record does not explain: (1) how her services differ deeply from the standard human development services; (2) how her deeply different services operated within the context of the businesses she worked for in the past or how they will operate in her proposed endeavor; or (3) how the results obtained for individual businesses and clients are indicative of broader implications in the field. As the Petitioner has not presented any new evidence or arguments on appeal to address these and numerous other identified deficiencies, she has not overcome them.

While we adopt and affirm the decision regarding the Director’s analysis under Dhanasar, we withdraw the Director’s finding regarding the Petitioner’s eligibility for the underlying classification. The Director determined the Petitioner qualifies for the requested EB-2 classification but did not specify whether the Petitioner qualified as either an advanced degree professional or an individual of exceptional ability. In either instance, and for the reasons below, we withdraw that finding.

Regarding the criteria at 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F), the Petitioner acknowledged that she does not need, nor does she have, a license to practice her profession; therefore, we conclude she has not established eligibility under 8 C.F.R. § 204.5(k)(3)(ii)(C). She did not assert her eligibility under 8 C.F.R. § 204.5(k)(3)(ii)(E) relating to membership in professional associations. Although she provided invoices of payments for work performed, such payments do not establish what her salary or remuneration is or how it demonstrates exceptional ability in accordance with 8 C.F.R. § 204.5(k)(3)(ii)(D). Additionally, the invoices postdate the petition filing and therefore do not establish eligibility at the time of filing. The evidence does not demonstrate the Petitioner has received recognition for achievements and significant contributions to the industry or field under 8 C.F.R. § 204.5(k)(3)(ii)(F). Her professional accomplishments and successes, as identified in her statement and reference letters, appear to have affected her clients or employers but do not substantiate a finding that she impacted the field or industry, which the Director’s decision fully explained.

Regarding her eligibility under 8 C.F.R. § 204.5(k)(3)(ii)(A), the Petitioner provided evidence that she earned a “*titulação de bacharelado*” in administration in 2013 from [REDACTED] (PUC). The Director specifically requested evidence to establish whether PUC is an accredited college, university, school, or other institution of higher learning. In response, the Petitioner provided a letter from PUC’s general secretary, which states that PUC is accredited with the federal government of Brazil under various decrees and ordinances. However, the general secretary’s letter is unsigned and therefore it carries little probative weight. Moreover, without the text of the ordinances and decrees before us, we cannot determine whether the referenced documents accredit the university. This is important because the Petitioner’s education evaluation from Geo Credential Services states that the Ministry of Education and Culture accredited PUC but contains no reference to the ordinances and decrees that the general secretary listed.<sup>1</sup>

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<sup>1</sup> While mentioning the accreditation in the heading of the evaluation, the GEO Credential Services evaluator does not analyze PUC’s accreditation or state which documents the evaluator relied upon in determining PUC’s accreditation status.

The Petitioner also provided evidence that in 2015, she completed a post-graduate specialization course “lato sensu” entitled “MBA in Strategic People Management.” We reviewed the AACRAO EDGE database, which is a reliable resource concerning the U.S. equivalencies of foreign education. See generally American Association of Collegiate Registrars and Admissions Officers, Electronic Database for Global Education, <https://www.aacrao.org/edge>. Although the database reflects that a “título de bacharel” may be a foreign equivalent of a U.S. bachelor’s degree, it does not indicate that the post-graduate “lato sensu,” is the foreign equivalent of a U.S. master’s degree. Rather, information in the database suggests the Petitioner may have completed a graduate program in which she received graduate credits leading to a professional certificate, but not necessarily leading to a graduate degree. Id. In addition, the database suggests that the “curso de especialização” is a program in a particular area of study in which a student may select to specialize. Id. Therefore, we conclude the Petitioner’s completion of the “MBA in Strategic People Management” course is not the equivalent of earning a master’s U.S. degree. As such, the record supports a finding that the Petitioner earned, at most, the foreign equivalent of a U.S. bachelor’s degree.

The employment letters documenting the Petitioner’s experience in the field of endeavor do not provide sufficient information to establish eligibility under criterion 8 C.F.R. § 204.5(k)(3)(ii)(B), related to 10 years of full-time experience in the profession. Specifically, the letter from [REDACTED] [REDACTED] evidences employment that appears to have begun after the petition’s filing date and therefore does not establish eligibility for the EB-2 classification at the time of filing; the [REDACTED] [REDACTED] letter is undated, appears to have no original signature, does not state whether the Petitioner’s work was full-time, and refers to the Petitioner using a different gender pronoun; and the [REDACTED] [REDACTED] letter provides exact dates for five years of employment with CPFL but does not contain any indication of the Petitioner’s duties or whether her work was full-time. Two letters, one from [REDACTED] and the other from [REDACTED] contain the required elements to serve as an employer letter but demonstrate the Petitioner’s work experience as an administrative assistant and logistics intern, respectively, rather than as a human development specialist. Therefore, these two letters do not demonstrate the Petitioner’s experience in the area of claimed exceptional ability.<sup>2</sup>

The Petitioner has not provided sufficient evidence to establish that she qualifies for the underlying EB-2 classification, nor has she addressed the deficiencies the Director identified regarding eligibility under the Dhanasar framework. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.

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<sup>2</sup> These letters do not establish at least five years of progressive post-baccalaureate experience in the occupation for the same reasons as they do not evidence 10 years of experience under criterion 8 C.F.R. § 204.5(k)(3)(ii)(B). Additionally, the letters from [REDACTED] refer to work experience gained before the Petitioner earned her “titulação de bacharelado” in administration. As such, the Petitioner has not established that she has an advanced degree by earning the foreign equivalent of a U.S. bachelor’s degree in combination with five years of progressive post-baccalaureate experience as delineated in 8 C.F.R. § 204.5(k)(3)(i)(B).