U.S. Citizenship and Immigration Services

In Re: 28510948

Date: OCT. 04, 2023

Appeal of Vermont Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (H-1B)

The Petitioner seeks to temporarily employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 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 of the Vermont Service Center denied the petition, concluding that the record did not establish that the proffered position qualifies as a specialty occupation. 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 sustain the appeal.

The record in its entirety credibly reflects that the Petitioner's applied scientist II position requires an incumbent to design, develop, evaluate, deploy, update models, and analyze solutions for machine learning and natural language applications. The record contains credible documentation describing the specific duties the applied scientist II will perform, for example developing and/or applying statistical modeling techniques such as Bayesian models and deep neural networks. The evidence the Petitioner submitted established that the Petitioner's range of degree fields inclusive of physics comprised a specialty based in the knowledge required to perform the duties of the proffered specialty occupation. Specifically, the evidence in the record indicated that the numerical principles and algorithmic modeling underpinning the field of physics was sufficiently shared amongst the field of computer science, computer and electronic engineering, and mathematics such that the fields are appropriately related to one another to comprise a specialty required to perform the duties of the proffered job. Consequently, we observe the record as sufficient to support that assertion by a preponderance of the evidence. When reviewed within the context of the Petitioner's business operations, we find the evidence of record sufficient to demonstrate that this Beneficiary's work would

in fact involve a "body of highly specialized knowledge" attained through a precise and specific course of study that relates directly and closely to the proffered position.

The evidence of record therefore establishes that the proffered position requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a bachelor's or higher degree in the specific specialty or its equivalent. It qualifies for classification as a specialty occupation as the term is defined at section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). It also establishes that the position is so complex or unique that it can only be performed by an individual with a bachelor's degree in a specific specialty, or the equivalent, and it therefore also satisfies 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). The record demonstrates that the Beneficiary possesses the education in a field related to computer science, computer or electrical engineering, math, or physics which provided them the theoretical and practical body of knowledge required to perform the duties of this specialty occupation.

ORDER: The appeal is sustained.