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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FEB - 4 2003

File: EAC-00-198-53803

Office: Vermont Service Center

Date:

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(2)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks to employ the beneficiary as an applications programmer. As required by statute, the petition was accompanied by certification from the Department of Labor. The director determined that the beneficiary does not qualify as an advanced degree professional.

On appeal, counsel argues that the beneficiary has a foreign degree equivalent to an advanced degree from an accredited university in the United States.

In pertinent part, section 203(b)(2) of the Act provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. An advanced degree is a U.S. academic or professional degree or a foreign equivalent degree above the baccalaureate level.

The petitioner initially submitted the beneficiary's degrees from Annamalai University, a baccalaureate degree in engineering and a Master of Business Administration. The petitioner, however, only submitted the transcript for the baccalaureate degree, reflecting four years of education.

On September 13, 2000, the director requested all of the beneficiary's transcripts and an evaluation of the beneficiary's education credentials. In response, the petitioner submitted a transcript for the beneficiary's MBA but not an evaluation of the beneficiary's credentials.

The director denied the petition, concluding that the petitioner had only submitted the beneficiary's undergraduate transcript. On appeal, the petitioner submits an evaluation of the beneficiary's credentials from International Credential Evaluators, Inc. The evaluation concludes that the beneficiary's education "is the full equivalent of a Bachelor of Science degree in Mechanical Engineering and a Master of Business Administration from an accredited university in the United States."

As stated above, the petitioner did submit the beneficiary's graduate transcript. The beneficiary obtained his baccalaureate degree in 1994. The transcript submitted in response to the director's request for additional documentation reflects courses from 1995 and 1996. At the top of the transcript appears "M.B.A. Degree Examinations." As such, the director's conclusion that the record does not contain the beneficiary's graduate transcript is in error.

In addition, on appeal, the petitioner has now submitted an evaluation. As stated above, this evaluation concludes that the beneficiary's degrees are the equivalent of a U.S. baccalaureate and a U.S. MBA. In light of the above, the petitioner has now demonstrated that the beneficiary qualifies as an advanced degree professional.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, U.S.C. 1361. The petitioner has met that burden.

ORDER: The decision of the director dated June 12, 2001 is withdrawn. The appeal is sustained and the petition is approved.