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

[redacted]

File: EAC-00-242-51557 Office: Vermont Service Center Date: 07 JAN 2002

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(i)(b)

Public Copy

IN BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which 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 which 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 which 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 nonimmigrant visa petition was denied by the director and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is an international hotel chain with 1,260 employees worldwide and a gross annual income of $85 million. It seeks to employ the beneficiary as a hotel front desk manager for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation.

On appeal, counsel submits a brief and additional documentation in support of the appeal.

8 C.F.R. 214.2(h)(4)(ii) defines the term "specialty occupation" as:

> an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

The director concluded that the petitioner failed to submit sufficient documentation to establish that the proffered position requires a bachelor's degree or its equivalent in hotel and restaurant management. On appeal, counsel asserts that the proffered position is a specialty occupation which requires a baccalaureate degree in hotel and restaurant management.

Counsel's statement on appeal is not persuasive. The Service does not use a title, by itself, when determining whether a particular job qualifies as a specialty occupation. The specific duties of the offered position combined with the nature of the petitioning entity's business operations are factors that the Service considers. In the initial I-129 petition, the petitioner described the duties of the offered position as follows:

> [The beneficiary] will coordinate the Front Office activities liaising with guests to ensure all their requests are met and to address any complaints or problems that may arise. [The beneficiary] will oversee [the] front desk staff and is responsible for all aspects of their job performance. [The beneficiary] will also hire and fire personnel [as] required.

Pursuant to 8 C.F.R. 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

1. A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;

2. The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;

3. The employer normally requires a degree or its equivalent for the position; or

4. The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

The petitioner has not met any of the above requirements to classify the offered position as a specialty occupation.

The Service does not agree with counsel's argument that the proffered position of hotel front desk manager would normally require a bachelor's degree in hotel and restaurant management. The duties of the proffered position closely parallel the duties of a front office manager as described at page 55 of the Department of Labor's Occupational Outlook Handbook, (Handbook), 2000-2001 edition:

> Front office managers coordinate reservations and room assignments as well as train and direct the hotel's front desk staff. They ensure that guest are treated courteously, complaints and problems are resolved, and requests for special services are carried out. Front office managers often have authorization to adjust charges posted on a customer's bill.

A review of the Handbook at pages 55-57 finds no requirement of a baccalaureate degree in a specialized area for employment as a hotel front office manager. Community and junior colleges, and some universities offer associate, bachelor's, and graduate degree programs in hotel and restaurant management. In addition, technical schools, vocational and trade schools, and other academic institutions offer programs leading to formal recognition in hotel or restaurant management. Although postsecondary education is preferred, some hotel employees still advance to hotel management positions without education beyond high school.

Counsel contends that the Department of Labor's Dictionary of Occupational Titles (DOT) indicates that the position of hotel front desk manager requires a baccalaureate degree. However, a reference in the DOL's DOT, standing alone, is not enough to establish that an occupation is a specialty occupation. The DOT classification system and its categorization of an occupation as "professional and kindred" are not directly related to membership in a profession or specialty occupation as defined in immigration law. In the DOT listing of occupations, any given subject area within the professions contains nonprofessional work, as well as work within the professions.

The latest edition of the DOT does not give information about the educational and other requirements for the different occupations. This type of information is currently furnished by the DOL in the various editions of the Handbook. The latter publication is given considerable weight (certainly much more than the DOT) in determining whether an occupation is within the professions. This is because it provides specific and detailed information regarding the educational and other requirements for occupations. Thus, the petitioner has not shown that a bachelor's degree or its equivalent is required for the position being offered to the beneficiary.

Counsel asserts on appeal that a baccalaureate degree in a specialized area is a normal requirement for positions as hotel front desk manager in the hotel industry. Counsel submits a letter from Joseph J. Zarza, General Manager of the Phoenix Park Hotel in Washington, D.C. Mr. Zarza states that the Front Office Management position is "a professional one that routinely requires a degree in a relevant discipline." One letter is insufficient evidence of an industry standard. The writer has not provided evidence in support of his assertion. In addition, the writer did not indicate the number or percentage of hotel front desk managers who hold such degrees. Thus, the petitioner has not submitted sufficient evidence to show that businesses similar to the petitioner in their type of operations, number of employees, and amount of gross annual income, require the services of individuals with a baccalaureate degree in a specialty area in parallel positions

The petitioner asserts that the company normally requires a baccalaureate degree in a specialized area or its equivalent for the proffered position. In support of this assertion, the petitioner submits a letter from Kelly J. Moulton, Regional Director of Human Resources of Jury's Doyle Hotel Group. Ms. Moulton states that the company does not employ individuals for the position of Front Desk Manager who do not have at least a bachelor's degree in a related discipline or the equivalent.

Counsel states that the hotel has employed only one previous Front Desk Manager since it opened in Washington, D.C. in 1998, and that individual was an intra-company transferee with the equivalent of

a United States Degree. Counsel further states that, if required, the company will be happy to forward the names and qualifications of overseas personnel. However, as of the date of this decision, no such list has been received from counsel or from the petitioner.

Finally, the petitioner did not submit any evidence to demonstrate that the nature of the beneficiary's proposed duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Counsel's statement on appeal that the proffered position was incorrectly identified as "Assistant Front Desk Manager" by both the petitioner and the Service in prior correspondence is noted. However, the finding that the proffered position does not qualify as a specialty occupation has been determined based on the correct job title, Hotel Front Desk Manager, and the duties of that position as described by the petitioner.

The petitioner has failed to establish that any of the four factors enumerated above are present in this proceeding. Accordingly, it is concluded that the petitioner has not demonstrated that the offered position is a specialty occupation within the meaning of the regulations.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.