



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

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

In Re: 29734086

Date: FEB. 14, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a human resource management professional, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, 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). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that her proposed endeavor is of national importance, and thus merits a waiver of the job offer and labor certification process in the national interest. 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.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.¹ 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest."

¹ Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term “national interest,” *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as matter of discretion,² grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id. at 889.

II. ANALYSIS

We agree with the Director’s determination that the Petitioner established her eligibility for EB-2 classification as a member of the professions holding an advanced degree.³ However, the Director concluded the Petitioner did not establish that a waiver of the required job offer, and thus a labor certification, would be in the national interest. The Director determined that the Petitioner’s proposed endeavor was not sufficiently defined to establish its national importance, under the first *Dhanasar* prong. In addition, the Director concluded that the Petitioner did not establish she is well positioned to advance the proposed endeavor, and that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification. For the following reasons, upon de novo review, we agree with the Director’s determination that there is insufficient evidence establish that granting the waiver of the labor certification would be in the United States’ national interest.

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner proposes to undertake. An endeavor’s merit may be demonstrated in a range of areas, such as business, entrepreneurialism, science, technology, culture, health, or education. In determining an endeavor’s national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner describes her proposed endeavor as being “. . . a certified Human Resource Generalist / Professional . . . [with the] intent to bring my knowledge, experience, and skills to the USA if I am given a chance.”⁴

² See *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).

³ To demonstrate she is an advanced degree professional, the Petitioner submitted an education evaluation from International Education Evaluations concluding that the combination of her executive master’s in business administration in human resources management, and bachelor of science degree in home economics are equivalent to a U.S. bachelor of business administration with a concentration in human resource management. She also provided copies of her academic certificates and transcripts toward completion of these degrees. In addition, the record contains employment letters documenting her progressive experience in the human resources management. Although the letters do not explicitly state that she worked fulltime for these employers, a preponderance of the evidence indicates that she was employed for at least five years as a human resource manager in positions that were progressively responsible. As such, the record establishes that she is an advanced degree professional as defined by 8 C.F.R. § 204.5(k)(2).

⁴ For purposes of brevity, we will not list the outlined “Proposed Roles and Responsibilities[,]” however, we have reviewed them, along with all other documents and statements contained in the record, for purposes of this decision.

The Director issued a request for evidence (RFE) addressing the insufficient evidence to establish the national importance of the proposed endeavor, noting that under *Dhanasar*, “USCIS looks for broader implications of the proposed endeavor and that an undertaking must have national importance . . . because it has national or even global implications within a particular field.”⁵ (internal markings omitted). In response, the Petitioner submitted a cover letter, recommendation letters, her resume, paystubs, certifications, awards, recognitions, “pictorial evidence,” and travel history. Her cover letter explained her qualifications and career highlights in the field of human resource management. The seven recommendation letters generally described how they knew her and for how long and lauded her work as a professional with strong capabilities across the field of human resources management. Some of the letters also described her “excellent human skills” and recommended her for permanent resident status in the United States. The Director concluded that there was substantial merit to the field of human resources management, but that neither her personal statement, nor the recommendation letters established the broader implications of her proposed endeavor or that her endeavor would benefit anyone, beyond herself and her future employer, as required under *Dhanasar*’s first prong.

On appeal, the Petitioner makes several assertions pertaining to the national importance of her proposed endeavor because it would enhance diversity and inclusion, promote social cohesion by reducing workplace discrimination, strengthen organizational culture, spur economic growth, productivity, and innovation, and contribute to the nation’s economic resilience, stability, and growth. She also asserts that she will accomplish much of these objectives using her expertise in employee recruitment and retention, staff development, and training and development which will lead to “a robust and skilled workforce.” Further, she asserts that her knowledge of “HR policies development and legal compliance” will be in the national interest because it will help organizations navigate complex local, state, and federal laws and regulations to “uphold the highest ethical standards, adhere to labor laws, and contribute to a fair and just society.” Finally, she asserts her endeavor will promote “ethical leadership and equitable practices within organizations . . . [and] foster a greater sense of corporate social responsibility [which will] contribute to the nation’s well-being and sustainability.” The Petitioner stresses that the provided recommendation letters from experts in the field are proof that “people who know [her] trust in [her] and believe in [her] abilities . . .,” which she contends demonstrates the substantial impact she will have in her field. She explains that if she is not offered employment in the United States, she will establish a consultancy, and that this would be beneficial to the United States because she will not be competing with U.S. citizens or residents for employment.

⁵ We acknowledge the Petitioner’s statements referencing the Director’s mischaracterizations in their RFE by referring to her as an IT business management specialist, her field as electrical engineering, and that the Petitioner’s plan is to specialize in the realm of process engineering. We also acknowledge the Petitioner’s concerns that these errors may have led to the denial of her petition. However, upon de novo review, we conclude the Director’s typos in the RFE do not warrant a remand because the Petitioner’s evidence lacks sufficient detail and corroboration to conclude her endeavor is of national importance under the standard set forth in *Dhanasar*. See, e.g., *Clifton v. Holder*, 598 F.3d 486, 494 (8th Cir. 2010) (quoting *Berte v. Ashcroft*, 396 F.3d 993, 997 (8th Cir. 2005)); see also *Lee v. Holder*, 765 F.3d 851, 855 (8th Cir. 2014); *Vargas v. Holder*, 567 F.3d 387, 391 (8th Cir. 2009) (generally standing for the proposition that remands are not needed if the issue is not likely to change the result). Moreover, the Director’s ultimate decision did not contain the same typos or mischaracterizations.

We agree with the Director's determination that, in so far as the Petitioner's endeavor relates to human resources management, it is of substantial merit. However, because the Petitioner's RFE response and appeal rely heavily on her academic credentials, professional experience, and achievements to establish the national importance of her proposed endeavor, she has provided insufficient evidence to establish *Dhanasar's* prong one. In general, factors that relate to a petitioner's qualifications, experience, or educational credentials relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under *Dhanasar's* first prong. Further, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. *See id.* at 889.

In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact the field more broadly. *Id.* at 893. Similarly, here, the record does not demonstrate that the Petitioner's proposed endeavor will substantially benefit the field of human resource management, as contemplated by *Dhanasar*. As we stated in *Dhanasar*, "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* In this case, absent evidence of the broader implications of her endeavor on the field of human resource management, the Petitioner has not established her potential employment or ownership of a consultancy would sufficiently impact the field of human resource management such that the potential impact of her endeavor is of national importance.

The Petitioner's statement includes a section titled "Proposed endeavor has both substantial merit and national importance," relating her experience in various professional roles. In it, she describes her professional roles as "critical," and specifies the duties she carried out in these roles. She also describes her employer as "one of the biggest private organizations in [Pakistan]." While we acknowledge this information, as stated above, her professional experience relates to *Dhanasar's* second prong but does not speak to or establish the national importance of her endeavor. In addition, her statement asserts that there is a projected growth of employment for human resources managers as new companies and organizations form and expand their operations. While that may be true, as the Director pointed out, it is not the importance of the field or profession in which the individual will work, instead, the focus of the first prong is the "specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Thus, the potential growth of a field or industry or a labor shortage within a particular field or industry is not generally relevant to our analysis of whether the endeavor is of national importance.

In *Dhanasar*, we stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. Here, the Petitioner has not provided corroborating evidence to support her claims that her endeavor will create a sufficiently meaningful impact in the economy to conclude her endeavor is of national importance. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. She has not done so, as she has not demonstrated that her proposed endeavor extends beyond her potential employment or her future clients (in the event her endeavor is a private consultancy) to impact the U.S. economy and human resources field more broadly at a level

commensurate with national importance. Beyond general assertions, she has not demonstrated that the work she proposes to undertake offers original innovations that contribute to advancements in her industry or otherwise has broader implications for her field. Moreover, the Petitioner did not offer a sufficiently direct evidentiary tie between her proposed endeavor and the claimed economic and societal results she purports will result from her endeavor.

Because the documentation in the record does not sufficiently establish the national importance of the Petitioner's proposed endeavor, she has not demonstrated eligibility for a national interest waiver. In addition, as the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding her eligibility under the second and third prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.