



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

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

In Re: 25273391

Date: MAR. 13, 2023

Motion on Administrative Appeals Office Decision

Form I-129, Petition for a Nonimmigrant Worker (Religious Worker – R-1)

The Petitioner, a Sikh Temple, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as a priest. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This R-1 nonimmigrant classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers, in religious vocations, or in other religious occupations in the United States.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish that the Beneficiary will work at least 20 hours per week. *See* 8 C.F.R. § 214.2(r)(1). We dismissed the appeal for the same reason. We also dismissed the Petitioner's two subsequent motions, finding in both instances that the Petitioner did not resolve inconsistencies regarding the Beneficiary's proposed work schedule and hours.

The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the combined motions.¹

I. LAW

A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

¹ We note that this decision does not prejudice or otherwise prevent the Petitioner from filing a new I-129 petition to establish eligibility for the benefit requested.

II. ANALYSIS

A. Motion to Reopen

In our prior decision, incorporated here by reference,² we discussed at length that the Petitioner's assertion and evidence contained serious errors and discrepancies that questioned its credibility. We concluded that the record lacked sufficient evidence to establish, by a preponderance of the evidence, that the Beneficiary will work more than 20 hours per week.

On this third motion, the Petitioner offers an October 2022 letter reasserting its previous claim: that the Beneficiary's daily schedule shows a combination of fixed 17 work hours and additional 23 work hours set aside for handling marriages, funerals, and other ceremonies as they occur. However, the Petitioner does not introduce any corroborating evidence to show how likely or how frequently the Beneficiary will work these additional 23 hours. The Petitioner also asserts that the Beneficiary's work hours increase from 17 to 22.5 hours per week because the Beneficiary will work a full day on Saturday. Still, this assertion contradicts the September 2021 letter stating the Beneficiary will work a total of 30 hours per week and the March 2022 letter showing that the Beneficiary will work five hours a day Monday through Saturday, and six and a half hours on Sunday. These discrepancies are material to the Petitioner's eligibility under 8 C.F.R. § 214(r)(1)(ii). We find that the Petitioner has not adequately resolved the inconsistencies with independent and objective evidence that points to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Therefore, we affirm our prior decision that the Petitioner did not meet its burden in establishing its eligibility under 8 C.F.R. § 214.2(r)(1)(ii).³

B. Motion to Reconsider

The Petitioner states on motion that the inconsistencies are a result of misunderstanding, but it does not identify any error of law or policy in our decision. 8 C.F.R. § 103.5(a)(3). Therefore, the motion does not meet the requirements of a motion to reconsider.

III. CONCLUSION

The Petitioner's submission of new evidence does not establish a ground for reopening the proceedings. Additionally, the Petitioner has not demonstrated any error of law or policy in our prior decision.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

² Our previous decision in this matter was ID# 22417264 (AAO SEP. 30, 2022).

³ Our prior decision referenced contradictions in the evidence related to the number of hours the Beneficiary would work under 8 C.F.R. 214.2(r)(1) using the phrase "need for the Beneficiary's services." This terminology deviated from the language of the regulation. There is no additional evidentiary requirement to establish a petitioner's need for the services of a beneficiary beyond the requirements of 8 C.F.R. 214.2(r)(1).