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PERM Approval after two denials

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Submitted by Rajiv S. Khanna on Apr 18th 2012

It is HIGHLY unusual for a PERM case to have such a convoluted history, but here is one where success came after two denials.

We filed a PERM application under EB-2 for a Physicist's position for which no formal training was required. The job also did not require employment experience, but did require hands-on work in a university research laboratory with a particular equipment. DOL denied the application stating essentially that the job requires training. According to them, "hands on work" is the same as formal training.

We responded with an MTR/Appeal asserting that this was not an appropriate ground for denial and that no formal training was required or available in these technologies. We submitted that hands-on work in a university research laboratory does not constitute formal training. Upon consideration, DOL agreed with us and reopened the application.

A year and a half later, DOL issued an Audit Notification. Immediately following our response, DOL denied the application for the second time, stating (incorrectly) that the advertisements were defective due to some technical reasons. Our response, in the form of another MTR/Appeal, included a clear exposition of the law. Given that the denial reason was clearly an error on DOL's part, we requested the case be placed into an expedited review so the case would quickly be reopened and approved. To our relief and joy, within one week DOL certified the labor application.

Santosh Pisharody

Agency:

DOL ^[2]

Profession/Occupation:

Physicists ^[3]

Green Card:

PERM - Labor Certification ^[4]

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Links:

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[2] <https://immigration.com/agencies/agency/dol>

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