MATTER OF DI PIETRO

In Visa Petition Proceedings

A-13234670

Decided by District Director January 18, 1965

Urgent need of beneficiary's services as a foreign-automobile mechanic is not established within the contemplation of section 203(a)(1), Immigration and Nationality Act, as amended, since considerably less than the alleged thirty-five per cent of petitioner's gross volume of business is derived from the repair of foreign cars.

The petitioner, Westchester Motors, 2030 Westchester Avenue, Bronx, New York, submitted a first preference visa petition under section 204 of the Immigration and Nationality Act, as amended, in behalf of Antonio DiPietro, on June 10, 1963. The services of the beneficiary are sought as an automobile mechanic, to repair all makes of foreign cars. Such duties would include the disassembly and overhaul of motors, transmissions, clutches, etc.

The Bureau of Employment Security clearance order submitted in conjunction with the petition specifies that the position requires a person who has had at least five years' experience in the performance of the duties of the position to be filled.

Evidence has been submitted indicating that the beneficiary was employed as an apprentice automobile mechanic with Giuseppe Saya, Venetico Marina, Italy, from March 1951 to May 1953, and as a skilled automobile mechanic with Giuseppe Rundo, in the same city, from July 1953 to January 1956. He was a specialized automobile mechanic in the employ of the Finance Corps of Palermo, Italy, from January 1956 to November 1962. The beneficiary is said to be capable of performing major repairs such as the disassembly and overhaul of motors, and to have acted in a supervisory capacity.

The petition reflects that Westchester Motors is engaged in general auto repair. On April 30, 1964, the petitioner stated that 35% of his gross volume of business was derived from the repair of foreign

cars. Inquiry at the petitioner's place of business, conducted by an officer of this Service on July 28, 1964, revealed that only 40% of the petitioner's business was devoted to mechanical and body repair work, the rest resulting from the storage, greasing, simonizing, and washing of automobiles, and the sale of gasoline. Of more than 75 copies of bills for repair work during the preceding year, only three involved foreign cars.

From the foregoing it is seen that considerably less than the alleged 35% of the petitioner's gross volume of business is derived from the repair of foreign cars. It is, therefore, concluded that the petitioner has failed to satisfactorily establish urgent need for the services of the beneficiary to perform the duties listed in the job summary of the clearance order, as required for first preference classification under section 203(a)(1) of the Immigration and Nationality Act, as amended.

ORDER: It is ordered that the first preference visa petition submitted by Westchester Motors, in behalf of Antonio DiPietro, be and the same is hereby denied.