MATTER OF AHMED

In Visa Petition Proceedings

A-13229857

Decided by Regional Commissioner September 29, 1967

A mechanical technologist is not a member of the professions within the meaning of sections 101(a)(32) and 203(a)(3) of the Immigration and Nationality Act, as amended.

IN BEHALF OF PETITIONER: Hermann Schaier, Esquire
8 West 40th Street
New York, New York 10018

This matter is before the Regional Commissioner on appeal from the decision of the District Director denying the petition. Oral argument, requested by counsel in the notice of appeal, was initially scheduled for August 2, 1967. Counsel then requested postponement until any time after August 21, 1967. Notice of rescheduling of the oral argument for September 13, 1967 was sent to counsel. As he failed to respond, the request for oral argument will be deemed abandoned and the appeal considered on the present record.

The petition was filed by the beneficiary for preference immigrant status under section 203(a)(3) of the Immigration and Nationality Act, as amended. The beneficiary is a 27-year-old native of India and citizen of Pakistan. His occupation is given as assistant engineer, mechanical technologist. On December 13, 1962 he was granted a Provisional Certificate showing completion of a three-year course in Power Technology at Karachi Polytechnic, West Pakistan, and that he was eligible for the diploma of Associate Engineer. His employment consists of part-time work since October 1963 for a lamp manufacturer as a designer of component parts and salesman at $3.00 an hour. A statement dated November 28, 1966 from the New York Institute of Technology shows his attendance since June 1963, working toward the B.S. Degree in Mechanical Technology, and the expectation that he would earn the degree in June 1967. Reopening of this proceeding to establish whether he was awarded such a degree would

serve no useful purpose since, as set forth below, it would be immaterial here.

The term "profession" is defined in section 101(a)(32) of the Immigration and Nationality Act to "include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries."

The beneficiary clearly does not have the equivalent of a bachelor's degree in engineering and his experience has not been as an engineer. He does not therefore qualify for professional status as an engineer. *Matter of Bedi*, Int. Dec. No. 1641. The remaining issue is whether he qualifies as a member of the professions in the occupation of mechanical technologist.

It has been held that in order to be recognized as a member of the professions within the contemplation of section 203(a)(3) of the Act, two elements must be established: (1) that the beneficiary has a baccalaureate degree or the equivalent in the given field, and (2) that the attainment of such a degree or diploma is usually the minimum requirement for entry into the particular occupation. If the degree or diploma obtained by the individual equips him to enter an occupation for which the attainment of such a degree is not a realistic prerequisite, that occupation may not be considered to be a profession. *Matter of Asuncion*, Int. Dec. No. 1600, and *Matter of Shin*, Int. Dec. No. 1606.

The Occupational Handbook, 1966–67 edition, an official publication of the Department of Labor, states at page 223:

> *Mechanical Technology.* Mechanical technology is a broad term usually used to cover a large number of specialized fields, including automotive technology, diesel technology, tool design, machine design, and production technology.
>
> Technicians in the above areas of mechanical technology often assist engineers in design and development work by making freehand sketches and rough layouts of proposed machinery and other equipment and parts. They help in determining whether a proposed design change in a product is practical and how much the product will cost to produce. They may also be called upon to solve design problems such as those involving tolerances, stress, strain, friction, and vibration.
>
> The planning and carrying out of test on experimental machines and equipment for performance, durability, and efficiency provide a large area of work for technicians. In the testing procedure, they record data, make computations, plot graphs, analyze results, and write reports. They sometimes make recommendations for design changes to improve performance. Their jobs often require skill in the use of instruments, test equipment and gages, such as dynamometers, as well as the ability to prepare and interpret drawings.
>
> Some mechanical technicians are employed in manufacturing departments to help develop plans for testing and inspecting machines and equipment, or to work with engineers in eliminating production problems. Some obtain jobs as technical salesmen. (See statements on Mechanical Engineers, Automobile Mechanics, Manufacturers' Salesmen, and Diesel Mechanics.)

One of the better known specialties which may be grouped under mechanical engineering technology is that of tool designer. The tool designer designs tools and devices for the mass production of manufactured articles. He originates and prepares sketches of the designs for cutting tools, jigs, dies, special fixtures, and other attachments used in machine operations. He may also make detailed drawings of these tools and fixtures, or supervise others in making them. Besides developing new tools, designers frequently redesign tools to improve their efficiency.

Machine drafting with some designing is another major area of work often grouped under mechanical technology. The work of technicians who are draftsmen is described elsewhere in this chapter.

The same publication states, beginning at page 224:

Young men and women who wish to prepare for careers as engineering or science technicians can obtain the necessary training from a number of sources, including specialized formal training programs offered in post-secondary schools—technicial institutes, junior and community colleges, area vocational technical schools, and extension divisions of colleges and universities—and technical and technical-vocational high schools. Persons can also become qualified for technician jobs by completing an on-the-job training program, through work experience and formal courses taken on a part-time basis in post-secondary or correspondence schools, or through training and experience obtained while serving on active duty in the Armed Forces. In addition, many engineering and science students who have not completed all requirements for a bachelor's degree, as well as some other persons with college education in mathematics and science, are able to qualify for technician jobs after they obtain some additional technical training and experience. In general, post-secondary school technical training is required for high-level engineering and science technician jobs. . . .

Programs offered by school specializing in post-high school technical training require 1, 2, or 3 years of full-time study. The majority are 2-year programs, leading to an associate of arts or science degree. . . .

Since the acquisition of a bachelor's degree in mechanical technology or the equivalent thereof is not a prerequisite for entry into the field of mechanical technology, the occupation of mechanical technologist is not a profession within the purview of the Immigration and Nationality Act, as amended.

For the reasons stated above, the appeal will be dismissed.

ORDER: It is ordered that the appeal be and hereby is dismissed.