



IN THE MATTER OF:

ARVIND GUPTA,

ARB CASE NO. 14-058

PROSECUTING PARTY,

ALJ CASE NO. 2014-LCA-008

v.

DATE: June 4, 2014

HEADSTRONG, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

*For the Complainant:*

Arvind Gupta, *pro se*, Mumbai, India

Before: E. Cooper Brown, *Deputy Chief Administrative Appeals Judge*; Joanne Royce, *Administrative Appeals Judge*, and Luis A. Corchado, *Administrative Appeals Judge*.

### ORDER DENYING INTERLOCUTORY REVIEW

Arvind Gupta has filed with the Administrative Review Board (ARB) a petition for interlocutory appeal of a Department of Labor Administrative Law Judge's orders that (1) denied Gupta's request to include Genpact Limited as a Respondent, (2) ruled that Headstrong, Inc. is the sole respondent in this matter and (3) denied a default motion against Headstrong Order Directing Prosecuting Party To Use Proper Caption; And Ordering Parties to Confer Regarding Discovery Disputes And Prosecuting Party's Witness Requests Prior To Pre-Hearing Conference (ALJ Apr. 24, 2014). Gupta previously filed a Motion for Enlargement Of Time To File Petition for (Interlocutory) Review.

The Secretary of Labor has delegated her authority to issue final administrative decisions in cases arising under the Immigration and Nationality Act<sup>1</sup> to the Administrative Review Board.<sup>2</sup> The Secretary's delegated authority to the Board includes "the *discretionary* authority to review interlocutory rulings in exceptional circumstances, provided such review is not prohibited by statute" (emphasis added).<sup>3</sup>

Where an ALJ has issued an order of which the party seeks interlocutory review, the ARB has elected to look to the certification procedures set forth in 28 U.S.C.A. § 1292(b) to determine whether to accept an interlocutory appeal for review.<sup>4</sup> Here, Gupta has neither obtained the ALJ's certification of the party question at issue, nor has he demonstrated exceptional circumstances sufficient to persuade the Board to exercise its discretionary authority to review this issue.<sup>5</sup>

Accordingly, we **DENY** Gupta's petition for interlocutory review. Gupta's motion for enlargement of time is moot.

**SO ORDERED.**

**LUIS A. CORCHADO**  
**Administrative Appeals Judge**

**E. COOPER BROWN**  
**Deputy Chief Administrative Appeals Judge**

**JOANNE ROYCE**  
**Administrative Appeals Judge**

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<sup>1</sup> 8 U.S.C.A. §§ 1101-1537 (Thomson Reuters 2014) and implementing regulations at 20 C.F.R. Parts H, I.

<sup>2</sup> 8 U.S.C.A. § 1182(n)(2); 20 C.F.R. § 655.845; *see* Secretary's Order No. 02-2012 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 77 Fed. Reg. 69,378 (Nov. 16, 2012).

<sup>3</sup> *Id.* at § 5(c)(66).

<sup>4</sup> *Gunther v. Deltek, Inc.*, ARB Nos. 12-097, 12-099, ALJ No. 2010-SOX-049, slip op. at 2 (ARB Sept. 11, 2012); *Prioleau v. Sikorsky Aircraft Corp.*, ARB No. 12-098, ALJ No. 2010-SOX-003 (ARB Aug. 30, 2012).

<sup>5</sup> The ALJ denied Gupta's motion requesting certification. Order Denying Prosecuting Party's Motion For Certification Of Issue For Interlocutory Review (ALJ Apr. 21, 2014).