

CANDIDATE : MR MARCUS LEKGALOA SENYATSI

APPLICANT: MARCUS LEKGALOA SENYATSI

**COURT FOR WHICH APPLICANT APPLIES: GAUTENG DIVISION OF
THE HIGH COURT**

1 The candidate's appropriate qualifications

1.1 The candidate has the following academic qualifications:

1.1.1 BProc (University of Limpopo); and

1.1.2 LLB (University of Limpopo)

1.2 The candidate is appropriately qualified.

1.3 The candidate is currently studying towards an H. Dip. Company Law.

2 Whether the candidate is a fit and proper person

2.1 The candidate is an admitted attorney. He is however not currently practising as such as he is employed as a legal adviser at the Industrial Development Corporation.

3 Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa

3.1 The candidate is a 59-year old black man.

3.2 The appointment of the candidate would contribute towards greater racial diversity on the Bench, but not contribute towards gender diversity.

4 The candidate's knowledge of the law, including constitutional law

4.1 On the information contained in the application the applicant does not have the necessary experience to be appointed as a judge. The candidate's experience is not as a practicing attorney or advocate.

4.2 The candidate has been involved in the legal industry since 1984 in various roles, from practising attorney to corporate legal adviser.

4.3 He has been employed as a corporate legal adviser for the Lebowa Development Corporation, Nampak, the Industrial Development Corporation.

4.4 He has further been employed as an Executive Manager for the South African Airways.

4.5 In his capacity as a corporate legal adviser he was exposed to development finance, debt restructuring, collections, intellectual property and contract negotiations.

4.6 He lectured part time at the University of Limpopo in Mercantile Law for six years.

4.7 After being admitted as an attorney in 1992 he practised in various firms as a professional assistant, sole proprietor and partner.

- 4.8 His experience in the legal field covers commercial litigation and advice, civil litigation and advice, as well as criminal and administrative tribunals.
- 4.9 The candidate does not seem to have extensive experience in Constitutional matters. He indicates that his exposure to Constitutional Law covered 8% of his experience.
- 4.10 According to his application the bulk of his court appearances were in the Magistrate Courts. He does not provide any information in respect of appearances in the Supreme Court of Appeal or the Constitutional Court; neither does he provide any information regarding appearances on appeal or review. None such appearances could be found.
- 4.11 The candidate has no reported cases in which he was the instructing attorney.
- 4.12 The candidate has acted as a Judge for a total of 37 weeks since 2016 in the Gauteng Division of the High Court.

5 The candidate's commitment to the values of the Constitution

- 5.1 No negative comments in this regard have been provided. It is a concern that the candidate has not written any judgments on constitutional issues and there is a paucity in his judgments regarding constitutional principles.

6 Whether any judgments have been overturned on appeal

6.1 The judgments that have been taken on appeal have not yet been finalised.

7 The extent and breadth of the candidate's professional experience

7.1 The candidate has vast professional experience in various capacities in the legal industry *inter alia* as a corporate legal adviser, executive manager and practising attorney. He has also acted as a judge in the High Court for a period of 37 weeks. He is versed in corporate affairs and has acted as director and chairman of various boards. He has resigned all of his directorships.

8 The candidate's linguistic and communication skills

8.1 A review of the candidate's judgments discloses an appropriate command of the official court language. His style is succinct, clear and to the point.

9 The candidate's ability to produce judgments promptly

9.1 At the time of the application the candidate had 8 Judgments outstanding. The longest outstanding judgment is since 26 April 2018. Of the outstanding judgments 2 are outstanding for 4 months and 6 are outstanding for 3 months.

10 The candidate's fairness and impartiality

10.1 The candidate displays an in depth understanding of the matters he presides over and deals with the parties in an even-handed manner.

11 The candidate's independent mindedness

11.1 No negative comments have been provided in this regard. The candidate was a member of the ruling party but resigned his membership in 2012. He has resigned his directorships of all companies that he was a director of.

11.2 The candidate has been and is currently employed at a state -owned entity, the Industrial Development Corporation, South African Airways and the Lebowa Development Corporation.

12 The candidate's ability to conduct court proceedings

12.1 The comments that have been received in this regard indicates that the candidate is punctual, fair and meticulous in his management of court processes.

13 The candidate's administrative ability

13.1 No negative comments have been provided in this regard. The only worrisome aspect is the ability to produce judgments. Judgments have been outstanding for 3-4 months. In one instance a judgment on

summary judgment was outstanding for 3 months and was produced only after enquiries by the instructing attorney.

14 The candidate's reputation for integrity and ethical behaviour

14.1 No adverse comments have been received in this regard. The candidate was once reprimanded by the Law Society in 2008 for the late return of financial statements of this trust account.

15 The candidate's judicial temperament

15.1 The candidate displays a well versed and courteous attitude to parties appearing before him. He is meticulous in the drafting of his judgments and deals with matters comprehensively. He is fair minded and industrious in his approach to matters serving before him.

16 The candidate's commitment to human rights, and experience with regard to the values and needs of the community

16.1 A review of the candidate's judgments discloses a paucity of references to the Constitution and Constitutional principles. The candidate was not involved in community projects in his professional capacity.

17 The candidate's potential

17.1 The candidate is 59 years old and should have reached his potential. He is currently still engaged in further studies, which indicates that he regards personal growth as an important element.

17.2 He did not produce any articles in academic journals, despite being a

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part time lecturer at tertiary level for 6 years.

18 The message that the candidate's appointment would send to the community at large

18.1 The message that the appointment of the candidate would send it that the judiciary is not limited to practising lawyers and that, lawyers with substantive experience in other types of legal work are also regarded as appropriate candidates for appointment to the judiciary.