

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: MS NONTUTHUZELO FAITH MLABA

**COURT FOR WHICH CANDIDATE APPLIES: KWAZULU-NATAL
DIVISION OF THE HIGH COURT**

1. The candidate's tertiary qualifications, professional admissions, honours, and permanent judicial appointments:

1.1. The candidate holds the following qualifications:

1.1.1. BA Law (1994), The National University of Lesotho; and

1.1.2. LLB (2001), University of KwaZulu-Natal.

1.2. The candidate is appropriately qualified.

2. The candidate's integrity and ethics:

2.1. No circumstances are known that would suggest that the candidate is not a person of integrity with a reputation for ethical behaviour or is not a fit and proper person for appointment.

3. Whether the candidate's appointment would help to achieve an appropriate racial and gender composition on the bench:

3.1. There are currently 26 full time judges on the KwaZulu- Natal Bench comprising (as far as could be ascertained):

3.1.1. 10 black women: (5 African, 4 Indian, 1 Coloured);

3.1.2. 10 black men (4 African, 3 Indian, 3 Coloured);

3.1.3. 1 white woman; and

3.1.4. 5 white men.

3.2. The candidate is a black African woman.

4. **The maximum time period the candidate could serve if appointed:**

4.1. Section 176(2) of the Constitution provides that all judges other than Constitutional Court judges “hold office until they are discharged from active service in terms of an Act of Parliament.” The Act in question is the Judges Remuneration and Conditions of Employment Act 47 of 2001.

4.2. Section 3(2)(a) of the Act provides that, subject to section 4(4), a judge will ordinarily be discharged from active service upon reaching the age of 70 if, by that date, they have completed a period of active service of not less than ten years. If not, they will be discharged from active service after having completed ten years of active service.

4.3. Section 4(4) allows for a judge who reaches the age of 70 to continue serving until the age of 75 if, at the time of turning 70, they have not yet served 15 years’ active service.

4.4. The candidate is 50 years old.

4.5. If appointed, the candidate could serve up to 20 years actively in office.

5. **The candidate’s personal commitment to the values of the constitution:**

5.1. The candidate’s commitment to the values of the Constitution is evident in the following ways:

- 5.1.1. She is a member of the Black Lawyers Association;
- 5.1.2. She has been a member of South African Women KZ Task Team from 2020 to date.

6. The candidate's knowledge of the law, including constitutional law:

- 6.1. The candidate has been a director of a law firm, between 2004 and 2018.

7. Judgments of the candidate that have been overturned, upheld or commented on, on appeal:

- 7.1. The candidate listed no judgments which have been taken on appeal and were overturned.

8. The extent and breadth of the candidate's professional experience:

- 8.1. The candidate has 19 years' experience as an attorney;
- 8.2. She has acted as a judge in the KwaZulu-Natal Division of the High Court on five occasions since April 2021.

9. The candidate's linguistic and communication skills:

- 9.1. The candidate has a good command of the English language. She writes in plain and clear language, making her writings easily readable and understandable.

10. The candidate's ability to produce judgments promptly:

- 10.1. The candidate has no reserved judgments outstanding.

10.2. No adverse comments were received and the judgments analysed were handed down within three months, where the date of hearing was indicated.

11. The candidate's ability to conduct court proceedings fairly, efficiently and effectively:

11.1. No adverse comments have been received regarding her ability to conduct court proceedings.

12. The candidate's independent mindedness:

12.1. No adverse comments have been received.

13. The candidate's administrative ability (other than in relation to court proceedings):

13.1. No adverse comments have been received regarding the candidate's administrative ability.

14. The message that the candidate's appointment would send to the public at large:

14.1. The candidate's appointment would send a positive message to the community.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

1. Reported judgments:

1.1. *Ziqubu v ABSA Bank, 9602/19P*

1.2. *S v Mtengwana 75/2019 KZND*

1.3. *MMI Group Limited v MEC of the Department of Public Works
2365/18P*