

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: MS LOKWALO ROSE MOGWERA

**COURT FOR WHICH CANDIDATE APPLIES: THE NORTH WEST
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. B. Juris: 1990;

1.1.2. LLB: 2000; and

1.1.3. LLM: 2010.

1.2. The candidate is appropriately qualified.

2. The candidate's integrity and ethics:

2.1. The candidate was previously interviewed in April 2021 following her short-listing for a position at the KwaZulu-Natal High Court.

2.2. At the interview, complaints were raised with the candidate that:

2.2.1. she had taken too long to hand down judgments in the Regional Court;

2.2.2. she often did not start Court on time and adjourned early; and

2.2.3. she was often absent from work.

2.3. In the April 2021 interview, the candidate blamed the failure to start court on time and adjourning early on issues within the management of the Court.

2.4. These issues are relevant to whether the candidate is a fit and proper person to hold the position of Judge in the High Court.

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

3.1. From October 2022, with the retirement of Gura J, there will be 5 full time judges on the North West bench, comprising (as far as could be ascertained):

3.1.1. 3 men (1 African, 2 Coloured);

3.1.2. 1 black woman; and

3.1.3. 1 white woman.

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 55 years old.

4.5. If appointed, the candidate could serve up to 15 years actively in office.

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

5.1. There is nothing to suggest the candidate does not value the constitution and its values.

5.2. The candidate has organized and facilitated workshops for Magistrates for training purposes from the law, race and gender research unit of the University of Cape Town.

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

6.1. The candidate indicates on her form that she is not involved in constitutional law litigation. (It appears the candidate did not understand question 6.2 of the questionnaire.)

6.2. The candidate has indicated her work experience from a clerk in the Department of Justice to a Regional Court Magistrate. The answers to the questions posed under portion of work under criminal, administrative, constitutional, labour law and other areas of law were met with a negative responsive of "*not involved in litigation*".

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

7.1. Judgments: *S v Mpulo* and *S v Khumalo*.

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

8.1. The candidate has over 29 years experience as per her CV. She has been a regional court Magistrate from 2004 to date.

8.2. She has previously acted in the High Court of KZN.

9. The candidate's linguistic and communication skills:

9.1. The candidate articulates herself well and is from the North West Province.

9.2. She speaks and understands Setswana.

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

10.1. Previous concerns were raised about the length of time it took the candidate to had down judgments.

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

11.1. The concerns from April 2021 interviews are set out under question 2 above.

12. The candidate's independent mindedness:

12.1. There is nothing to suggest in the judgments which have been put up by the candidate, that she did not act with impartiality.

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

13.1. The concerns from April 2021 interviews are set out under question 2 above.

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

14.1. The candidate has the potential to be a good judge.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

1. Reported judgments:

1.1. None

2. Unreported judgments:

2.1. None

3. Judgments upheld on appeal:

3.1. None

4. Judgments overturned on appeal:

4.1. None