

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: MS NTOMBIZANELE ELIZABETH NDLOKOVANE

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

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

1.1. The candidate has the following qualifications:

1.1.1. B. Iuris – University of the Western Cape (1996);

1.1.2. LLB – University of the Western Cape (2003); and

1.1.3. LLM – University of South Africa (2007).

1.2. The candidate is appropriately qualified.

1.3. The candidate has also held the following positions:

1.3.1. Advanced Certificate in Alternate Dispute Resolution –
University of Pretoria (2015);

1.3.2. Arbitration in the Construction Industry Course – AFSA and
University of Pretoria (2015); and

1.3.3. Admission to Johannesburg Society of Advocates – December
2012.

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 81 full time judges on the Gauteng High Court Division bench, comprising (as far as could be ascertained):

3.1.1. 20 black women;

3.1.2. 31 black men;

3.1.3. 13 white women; and

3.1.4. 17 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 seventy 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 seventy to continue serving until the age of seventy-five if, at the time of turning seventy, they have not yet served 15 years' active service.

4.4. The candidate is currently 48 years old.

4.5. If appointed, the candidate could serve up to 22 years actively in office.

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

5.1. The candidate has, in terms of her judgments as an acting judge, demonstrated a firm commitment to the values of the Constitution and to the rule of law.

5.2. The candidate's contribution to the values of the Constitution also appears from her service to the Johannesburg Society of Advocates and her acting appointments as judge of the High Court.

5.3. The candidate has served as a child protection specialist with UNICEF (April 2009 to December 2011) and has a strong affiliation with the protection of children's' rights.

5.4. The candidate further served as the Chairperson of the Appeal Board of the Compensation Fund (Department of Labour) (December 2016 to December 2021).

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

- 6.1. The candidate has practiced as an advocate for almost 10 years (from December 2012).
- 6.2. Prior to her admission as an Advocate, she served as a Public Prosecutor (April 1999 to March 2001).
- 6.3. The candidate has, since her admission to the bar, acted in the Limpopo, Northern Cape, Mpumalanga, and the Gauteng Divisions of the High Court.
- 6.4. The candidate has a varied practice with experience in criminal, labour, construction, family, personal injury, and commercial law.
- 6.5. The candidate's judgments reveal a balanced understanding and knowledge of the law.
- 6.6. The candidate displays an understanding of jurisprudence and the proper approach thereto.
- 6.7. The candidate's judgments are balanced and well researched.
- 6.8. The candidate's application and the available decisions written by the candidate do not reflect whether she has knowledge of or experience in constitutional law.

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

- 7.1. The candidate drew the reviewers' attention to one matter in which an appeal was unsuccessful, and the order confirmed, namely *Greater*

Tubase Municipality v Mphaphuli Construction (Pty) Ltd, case number 4624/2016. The reviewers could not locate a copy of the judgment, however.

- 7.2. No other judgments of the candidate could be located that have been taken on appeal.

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

- 8.1. The candidate has sufficient experience as a practicing advocate over a period of almost ten years. Despite the fact that she has not yet attained Silk, she has acted regularly and for extended periods as a judge in the High Court, in total approximately 74 weeks. We are advised that she is currently sitting additional weeks in the Gauteng Division of the High Court.

- 8.2. The candidate has broad professional legal experience.

- 8.3. The reviewers established from colleagues that the candidate, when acting, is always familiar with court papers and is well prepared for hearings. She conducts her matters with courtesy to counsel and in a professional manner.

- 8.4. Having acted for extensive periods, the candidate has sufficient experience to be appointed permanently.

9. The candidate's linguistic and communication skills:

- 9.1. From the candidate's judgments, it appears that she has a good command of the English language.

9.2. The candidate is able to articulate legal principles in understandable terms.

9.3. To the best of the reviewers' knowledge, no adverse comments have been received regarding the candidates linguistic or communication skills.

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

10.1. The candidate advises in her application that she currently (as of June 2022) has five outstanding judgments. No explanation has been furnished for the outstanding judgments.

10.2. Of the five, two date back to February 2022.

10.3. According to the norms and standards for the performance of judicial functions (2014), "[s]ave in exceptional circumstances where it is not possible to do so, every effort shall be made to hand down judgments no more than 3 months after the last hearing".

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

11.1. The candidate's fairness and impartiality are evident from the judgments that she has written, which resonate with a determination to do justice to the parties.

11.2. Counsel who have appeared before her speak highly of her fastidious preparation prior to the hearing of matters.

11.3. There is nothing in the candidate's application to suggest that she does not perform her duties as a judicial officer with fairness and impartiality.

11.4. To the best of the reviewers' knowledge, no adverse comments have been received regarding the candidate's fairness and/or impartiality.

12. The candidate's independent mindedness:

12.1. There is nothing to suggest that the candidate is not independent-minded.

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

13.1. The candidate has served with UNICEF as a child protection specialist, and further served as a Senior Legal Administration Officer for the Department of Justice: National Office (November 2007 to March 2009). This indicates that she demonstrates strong administrative abilities.

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

14.1. Given the candidate's extensive experience as an acting judge across four divisions of the High Court, her appointment would send a positive message to the public at large. This is especially so given her broad legal knowledge and her interest in the protection of children.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Judgments:

- 1.1. *Johannes v S* (A146/2018) [2022] ZAGPPHC 391 (8 June 2022)
- 1.2. *Rope Construction Co (Pty) Ltd v Blazecor* 116 CC [2017] ZANCHC 40
- 1.3. *Seseko v S* [2022] ZAGPPHC 221
- 1.4. *Laurance & Others v S* (as appended to candidate application – citation unknown)
- 1.5. *Seodisa v S* (as appended to candidate application – citation unknown)
- 1.6. *Joubert v Batiss & Others* (as appended to candidate application – citation unknown)
- 1.7. *Ludwig v Minister of Police* (as appended to candidate application – citation unknown)
- 1.8. *Erf 23 Magaliesig CC v Firstrand Bank Limited* (as appended to candidate application – citation unknown)