

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: ADV SANET VAN ASWEGEN

**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 holds the following qualifications:

1.1.1. Baccalaureus Legum Civilium, University of Pretoria, 1991; and

1.1.2. Baccalaureus Legum, University of Pretoria, 1993

1.2. The candidate is appropriately qualified.

1.3. The candidate holds the following professional admissions:

1.3.1. The candidate was admitted as an advocate on 10 August 1994.

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.

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 High Court of South Africa, Gauteng 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 white 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 51 years of age.

4.5. If appointed, the candidate could serve up to 19 years actively in office.

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

5.1. As a student at the University of Pretoria in 1992, the candidate participated in the Street Law project which taught scholars about their basic legal rights. It is not clear whether her participation was part of the course content required for her to graduate.

5.2. The candidate was an elected member of the Johannesburg Bar Council 2018, 2019, and 2020. The candidate served on the pro-bono committee.

5.3. The candidate's application records her meeting the requirements of the Johannesburg Society of Advocates that all its members give as a service to the community and commitment to the values of the constitution 20 pro bono hours each year.

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

6.1. The candidate's limited experience and exposure as an acting judge has not provided the reviewers with sufficient material to assess the candidate's suitability for appointment. The reviewers are not aware of further judgments that the candidate has written.

6.2. From the three judgments reviewed, the candidate appears to possess good knowledge of various areas of the law covered by the judgments. The candidate's application reflects exposure to constitutional law in the form of, in particular, section 26 rights as these apply to PIE applications.

6.3. The candidate's CV records her knowledge of: property law, family law, company law; criminal law, procedural law.

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

7.1. There is no evidence that any of the candidate's judgments have been overturned, upheld, or commented on, on appeal.

7.2. The applicant's records in her application that one of her judgments were appealed against. She refused leave to appeal, as did the Supreme Court of Appeal on application.

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

8.1. The candidate has been practicing as an Advocate of the High Court of South Africa for a period of 25 years.

8.2. The candidate worked as a state prosecutor for a period of three years prior to commencing practice as an Advocate of the High Court of South Africa.

8.3. The candidate served as an acting judge of the High Court of South Africa, Gauteng Division in November 2019 for one week. The

candidate had another acting stint in the said court for a period of four weeks commencing on 18 July 2022.

- 8.4. From the candidate's CV and written judgments, it appears that the candidate's legal experience lies in the areas of criminal, family, property, corporate, and procedural law.

9. The candidate's linguistic and communication skills:

- 9.1. Although none of the judgments reviewed dealt with complex facts or legal issues, they reflected an appreciation of the issues and application of the relevant principles to the facts.

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

- 10.1. The judgments produced by the candidate do not indicate a date of hearing of the matters and date of delivery of the judgment so the reviewers could not assess whether judgments are produced inside or outside of the three-month limit provided for under provision 5.2.6 of *Norms and Standards for the Performance of Judicial Functions (2014)*.

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

- 11.1. The reviewers have not received any negative comments regarding the manner in which the candidate conducts court proceedings.
- 11.2. The reviewers have only been able to illicit one comment from a member of the Johannesburg bar who appeared before the candidate. The said member stated that the candidate had read the papers,

understood the issues placed before her, and gave both parties a fair hearing.

12. The candidate's independent mindedness:

- 12.1. The candidate's judgments reflect a fair and independent mind.
- 12.2. The candidate expressed each of the parties' arguments and her views of the merits and demerits of the arguments presented.

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

- 13.1. There is no available information upon which an assessment can be made in relation to the candidate's administrative abilities.

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

- 14.1. The reviewers are of the opinion that it is premature for the candidate to be appointed as a permanent judge because the candidate has had very little experience as an Acting Judge of the High Court of South Africa.
- 14.2. The candidate's practice as an advocate does not demonstrate that she has been involved in any positions which would make up for her lack of experience in presiding over cases, i.e., there is no evidence of her having extensive experience as a presiding officer in quasi-judicial forums.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Unreported judgments:

- 1.1. *Ramodutoana Investments (Pty) Ltd v Johannesburg Property Company (SOC) Ltd & Another* unreported case no. 2019/21855
- 1.2. *Melomed Insurance v Helivac Aero Services (Pty) Ltd* unreported case no. 17786/2018,
- 1.3. *Rand Water v Urban Dynamics (Gauteng Inc) in re: Urban Dynamics (Gauteng) v Rand Water* unreported case no.39287/17