

JSC INTERVIEW ROUND: OCTOBER 2023

CANDIDATE: JUDGE GLORIA NOZUKO MJALI

COURT FOR WHICH CANDIDATE APPLIES: SUPREME COURT OF APPEAL

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

1.1. The candidate is appropriately qualified.

1.2. The candidate holds the following qualifications:

1.2.1. BA Law (UWC – 1987);

1.2.2. LLB (UWC – 1990); and

1.2.3. LLM (Cardiff University of Wales, UK – 2003).

2. The candidate's integrity and ethics:

2.1. No circumstances are known that would suggest 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 22 judges permanently appointed to the SCA. Based on the names listed on the SCA website, the SCA's racial and gender composition appears to be:

- 3.1.1. 10 black women (7 African, 1 Indian, 2 coloured);
- 3.1.2. 2 white women;
- 3.1.3. 7 black men (5 African, 1 Indian, 1 coloured); and
- 3.1.4. 3 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 was appointed as a judge on 17 October 2017. She will turn 70 on 22 June 2035, at which point he will have served as a judge for more than 15 years.
- 4.5. If appointed, the candidate could serve a further 11 years.

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

5.1. The candidate appears to embrace the core values of the Constitution and human rights.

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

6.1. The celebrated *Ndabeni* judgment referred to below written by Judge Mjali is a true reflection of her deep knowledge and appreciation of both the law and the Constitution. She understands the sufferings and plight of underprivileged litigants.

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

7.1. The outstanding judgment which has passed muster up to the Constitutional Court is *O.R. Tambo v Ndabeni*. The SCA and Constitution Court citations are:

7.1.1. *Municipal Manager O.R. Tambo District Municipality and Another v Ndabeni* (CCT 45/21) [2022] ZACC 3; [2022] 5 BLLR 393 (CC); (2022) 43 ILJ 1019 (CC); 2022 (10) BCLR 1254 (CC); 2023 (4) SA 421 (CC) (14 February 2022).

7.1.2. *Ndabeni v Municipal Manager: OR Tambo District Municipality and Another* (1066/19) [2021] ZASCA 8 (21 January 2021).

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

8.1. The positions the candidate has occupied within the Justice Department reflect her vast experience in the practice of law.

9. **The candidate's linguistic and communication skills:**

9.1. The judgments attached on her application form written by the candidate do not reflect a lack of linguistic or communication skills.

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

10.1. The candidate demonstrates the ability to deliver judgments promptly. Her judgments are produced within a reasonable time.

10.2. Members of the Bar reported that they have not received a complaint that the candidate's judgments were ever delayed and outside the 3 months prescribed period.

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

11.1. There is nothing to indicate that the candidate cannot conduct court proceedings fairly, efficiently and effectively.

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.

13.2. The candidate's experience with the NPA and Department of Justice leads to the inference that she has good administrative skills.

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

14.1. The appointment of the candidate will send a positive the message to the community.

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