

JSC INTERVIEW ROUND: OCTOBER 2024

VACANCY: JUDGE PRESIDENT, WESTERN CAPE DIVISION OF THE HIGH COURT

JUDGE DENZIL OWEN POTGIETER

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

1.1. The candidate holds the following degrees and qualifications:

1.1.1. BA (Law), University of Western Cape (1978)

1.1.2. LLB, University of Western Cape (1980)

1.1.3. BA (Honours) Philosophy, University of Western Cape (1981)

1.1.4. LLM (Constitutional and International Trade Law), University of South Africa (2001)

1.1.5. Diploma in International Trade Law, University of California (1998).

2. The candidate's integrity and ethics

2.1. No circumstances are known to the reviewers 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. The racial and gender composition on the bench

3.1. As far as could be ascertained, there are 27 permanent judges of the Western Cape Division of the High Court:

3.1.1. 10 black women (4 African, 6 Coloured)

3.1.2. 12 black men (5 African, 5 Coloured, 2 Indian)

3.1.3. 2 white women

3.1.4. 3 white men

3.2. According to the questionnaire, the candidate is a Coloured man.

4. The maximum period the candidate could serve if appointed

- 4.1. At the time of the interviews, the candidate will be approximately 67 years and 9 months old and will have completed a period of approximately 2 years and 2 months of active service.
- 4.2. If appointed, the candidate would be eligible to complete a period of approximately 7 years and 2 months' active service as Judge President.

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

- 5.1. The candidate's commitment to human rights is evident from his record as an anti-apartheid activist who also served as a TRC Commissioner.
- 5.2. During the course of his career (as a practitioner), the candidate was initially involved in political litigation and trials and thereafter developed a practice representing state institutions and public entities in constitutional, administrative, and local government law.

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

- 6.1. The candidate has experience in criminal and civil law, labour law as well as administrative and constitutional matters. As a practitioner, the candidate appeared in numerous important constitutional cases, including at the highest level.
- 6.2. He practiced in the High Courts, Labour Court, Supreme Court of Appeal and Constitutional Court.

7. Judgments of the candidate that have been taken on appeal

- 7.1. The candidate listed one judgment that was upheld on appeal and one judgment that was overturned on appeal.

8. The candidate's ability to produce judgments promptly

- 8.1. There is no indication that the candidate is unable to produce judgments promptly.

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

- 9.1. The candidate was a member of the Cape Bar from 1985 to 2022, when he was elevated to the bench. For the better part of that time, he was a silk. As stated, he was also a commissioner at the Truth and Reconciliation Commission for five years.

9.2. As stated before, the candidate enjoyed extensive practice in various fields of law in a long and successful career spanning 40 years. He is, however, new to the bench, having been appointed less than two years ago.

10. The candidate's linguistic and communication skills

10.1. The candidate's judgments are in English

10.2. Nothing in the judgments and other writings considered by the reviewers indicates that the candidate's linguistic and communication skills are not adequate.

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

11.1. The reviewers received no adverse comments from colleagues relating to the candidate's ability to conduct court proceedings fairly, efficiently, and effectively.

12. The candidate's independent-mindedness

12.1. No adverse comments regarding the candidate's independent-mindedness have been noted.

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

13.1. There is no indication that the candidate has poor administrative ability.

14. The message that the candidate's appointment will send to the community at large

14.1. Given the candidate's relative inexperience as a judge and despite his experience as a legal practitioner, his appointment would send the message that experience as a High Court judge is not a decisive factor in the appointment of a Judge President.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. Not completed by reviewers

Unreported judgments

1. Not completed by reviewers

Judgments upheld on appeal

2. Not completed by reviewers

Judgments overturned on appeal

3. Not completed by reviewers