

# **JSC INTERVIEW ROUND: OCTOBER 2024**

## **VACANCY: JUDGE, GAUTENG DIVISION OF THE HIGH COURT**

### **MR TEBOGO TLHAPI THUPAATLASE**

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

1.1. The candidate holds the following tertiary qualifications:

1.1.1. B Juris, University of the Northwest (Mafikeng Campus) (formerly Unibo) (1985)

1.1.2. LLB, University of South Africa (2015).

1.2. The candidate holds the following professional admissions and honours:

1.2.1. The candidate has not practised as an attorney or advocate.

1.3. The candidate was permanently appointed to the following judicial roles:

1.3.1. Magistrate on 09/12/1990

1.3.2. Magistrate and Head of Office on 02/07/2012

1.3.3. Senior Magistrate on 01/05/2017

1.3.4. Acting Chief Magistrate on 02/02/2018

1.3.5. Regional Magistrate on 02/05/2023.

#### **2. The candidate's integrity and ethics**

2.1. The candidate has disclosed the existence of a complaint against him by a respondent in proceedings over which he presided. The candidate has responded to the complaint but has received no feedback as to whether the Judicial Conduct Committee will take further steps. The Deputy Judge President has, however, reportedly advised the complainant that there is no merit to the complaint.

2.2. Save for the above, 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 currently 76 permanent judges of the Gauteng Division of the High Court:

3.1.1. 24 black women (19 African, 2 Coloured, 3 Indian)

3.1.2. 23 black men (17 African, 2 Coloured, 4 Indian)

3.1.3. 14 white women

3.1.4. 15 white men

3.2. According to the questionnaire, the candidate is an African man.

### **4. The maximum period the candidate could serve if appointed**

4.1. At the time of the interviews, the candidate will be approximately 62 years and 8 months old and will have completed a period of approximately 4 months of service as an acting judge.

4.2. If appointed, the candidate would be eligible to serve as a judge for approximately 12 years and 3 months until the age of 75.

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

5.1. The candidate has demonstrated a commitment to access to justice.

5.2. He recognises the role of the Magistrates' Courts as the first encounter with the legal system for most litigants, and records his commitment to ensuring that such litigants receive quality justice at that level. This includes the training of Magistrates in civil procedure.

5.3. The candidate has also sought to ensure that the Small Claims Courts are accessible to those relying on their services and that they have sufficient capacity to service the demand.

5.4. The candidate has also expressed a commitment to the values of transformation and has taken active steps to empower young black females through their appointment as acting Magistrates.

5.5. In addition, the candidate has provided *pro bono* advice to the Baga-Maidi Tribal Council (Manthestad) on matters including land claims and mineral prospecting on tribal land.

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

6.1. As a Magistrate, the candidate has presided over civil, criminal and family law matters.

6.2. The majority of the judgments penned by the candidate in his capacity as an acting judge involve criminal matters and family law matters. His judgments in these matters suggest that he is a competent judge in these fields. He appears to have a high level of knowledge and understanding of the law.

6.3. The candidate has indicated in his application that 55% of his experience is in the field of criminal law, and that civil law comprises 35% of his experience. His estimate is that only 5% of the cases over which he has presided involve constitutional law.

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

7.1. The candidate has disclosed that none of his judgments have been taken on appeal, and the reviewers found no judgments of the candidate that have been taken on appeal.

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

8.1. The candidate has not practised as an attorney or advocate.

8.2. The candidate was a public prosecutor for approximately five years before being appointed as a Magistrate. He also worked in the private sector between 2005 and 2014.

8.3. The majority of the candidate's legal professional experience has been gained in his capacity as a Magistrate. He served as a Magistrate between 1990 and 2005, when he joined the private sector. He was then reappointed as a Magistrate in 2012 (following his service as an acting Magistrate for a year prior to this).

8.4. The candidate has acted as a judge of the Gauteng Division of the High Court for four terms between 2021 and 2023. In that capacity he presided over civil and criminal trials, opposed, unopposed and interlocutory motions, family court, Road Accident Fund matters and criminal appeals.

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

- 9.1. The candidate's judgments are written in English.
- 9.2. Nothing in the judgments and other writings considered by the reviewers indicates that the candidate's linguistic and communication skills are not adequate.

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

- 10.1. The candidate indicated that no judgments were outstanding at the time of completing the questionnaire.
- 10.2. Of the 35 judgments of the candidate considered by the reviewers, 5 were handed down more than three months after the hearing.

**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. The reviewers received no adverse comments from colleagues relating to the candidate's independent-mindedness.

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

- 13.1. The candidate has held leadership roles over the course of his career, including Head of Office, Senior Magistrate and Acting Chief Magistrate. These roles are understood to include administrative duties.
- 13.2. The candidate served as a member of the Rules Board and, during that time, served on the Magistrate, Costs and Small Claims sub-committees. These roles would have required the candidate to perform administrative functions

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

- 14.1. The candidate has dedicated most of his career to the advancement of access to justice through his service as a Magistrate. This commitment has carried through to the candidate's willingness to avail himself as an acting judge on four occasions. In this capacity, the candidate has delivered logical and reasoned judgments, and has generally done so promptly.

14.2. The candidate has also demonstrated a commitment to transformation in the legal profession, including through training and mentoring young lawyers.

## **ANNEXURE: LIST OF JUDGMENTS CONSIDERED**

### Reported judgments

1. None

### Unreported judgments

2. *S v Pule* 2021 JDR 2890 (GJ)
3. *S v JM* 2021 JDR 3205 (GJ)
4. *VM v BL* 2021 JDR 3345 (GJ)
5. *S v Manana* 2021 JDR 3378 (GP)
6. *Mathiso v The Minister of Police* (6938/2019) [2021] ZAGPJHC 768 (3 December 2021)
7. *Mavuso v S* (A130/2018) [2021] ZAGPJHC 769 (3 December 2021)
8. *Mboneleli v Londa* (2020/29437) [2021] ZAGPJHC 823 (15 December 2021)
9. *Thomas v The Johannesburg Road Agency (Pty) Ltd* 2022 JDR 0986 (GJ)
10. *Van Zyl v Van Zyl* 2022 JDR 2910 (GJ)
11. *Malinga and others v Mahamba and others* 2022 JDR 2971 (GJ)
12. *Viljoen v Iraklion Trading CC* (2020/36177) [2022] ZAGPJHC 36 (20 January 2022)
13. *Thubakgale v The Johannesburg Road Agency (Pty) Ltd* (2021/4396) [2022] ZAGPJHC 259 (28 March 2022)
14. *First National Bank v Pearl* (18251/2021) [2022] ZAGPJHC 644 (2 September 2022)
15. *V Z v V Z : In re: V Z v V Z* (2020/31538) [2022] ZAGPJHC 694 (14 September 2022)
16. *Maboea and others v MEC for Health Gauteng Provincial Government* 2023 JDR 0244 (GJ)
17. *S v Taylor* 2023 JDR 1917 (GJ)
18. *S v Randal* 2023 JDR 2020 (GJ)
19. *Tshenodi and Others v Road Accident Fund* (2019/11156; 2020/05922; 2019/28478) [2023] ZAGPJHC 1487 (17 January 2023)
20. *Ligunya v S* (A150/2022) [2023] ZAGPJHC 1287 (17 April 2023)
21. *Ngubane v S* (A29/2023) [2023] ZAGPJHC 500 (18 April 2023)
22. *Mokoena v S* (A36/2022 ; RC195/15) [2023] ZAGPJHC 523 (19 May 2023)
23. *Taylor v Regional Court Magistrate, Nemavhidi and Another* (12398/19) [2023] ZAGPJHC 604 (31 May 2023)
24. *Turf Urban Finance (RF) Ltd v House of Tandoor and Others* (42518/2020) [2023] ZAGPJHC 608 (1 June 2023)

25. *Sauls v S* (A143/2022) [2023] ZAGPJHC 664 (8 June 2023)
26. *Mashau v S* (A11/2022) [2023] ZAGPJHC 731 (27 June 2023)
27. *Olivier and Another v Manzini and Others* (2022/20584) [2023] ZAGPJHC 1143 (6 October 2023)
28. *Khumalo v Master of High Court Johannesburg and Another* (2023/095270) [2023] ZAGPJHC 1158 (9 October 2023)
29. *Boardwalk Trading 175 CC v City of Ekurhuleni Metropolitan Municipality and Another* (2023/101032) [2023] ZAGPJHC 1163 (16 October 2023)
30. *C.P.M v N.E.M* (18195/2022) [2023] ZAGPJHC 1244 (30 October 2023)
31. *L.S.P.v R.S.P* (2014/2941) [2023] ZAGPJHC 1281 (9 November 2023)
32. *Y.V.D.M v W.P.V.D.M* (2021/43213) [2023] ZAGPJHC 1280 (9 November 2023)
33. *Emalini Enterprises 15 CC and Another v Grains For Africa Commodity Brokers (Pty) Ltd and Others* (2021/11461) [2023] ZAGPJHC 1333 (20 November 2023)
34. *Vastinet (Pty) Ltd v LMC Enterprise (Pty) Ltd* (2021/46706) [2023] ZAGPJHC 1349 (21 November 2023)
35. *ABSA Bank Limited v Eternal City Trading 612 CC and Another* (2022/006207) [2024] ZAGPJHC 29 (17 January 2024)
36. *Phumzile and others v Road Accident Fund 2024* JDR 0149 (GJ)

Judgments upheld on appeal

37. None

Judgments dismissed on appeal

38. None