

INTERVIEW ROUND: OCTOBER 2024

VACANCY: JUDGE, WESTERN CAPE DIVISION OF THE HIGH COURT

NONTUTHUZELO ELIZABETH RALARALA

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. BLuris, University of Transkei, now Walter Sisulu University (1995)

1.1.2. LLB, University of the Western Cape (2003).

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

1.2.1. public prosecutor in 1998

1.2.2. advocate in 2004.

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

1.3.1. District Court Magistrate in 2005

1.3.2. Regional Magistrate in 2015.

2. The candidate's integrity and ethics

2.1. No circumstances known to the reviewers 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.

2.2. The candidate has disclosed that a civil judgment was granted against her in respect of a debt owed to the South African Revenue Service, and that the debt was subsequently settled.

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 an African woman.

4. The maximum period the candidate could serve if appointed

- 4.1. At the time of the interviews, the candidate will be approximately 53 years and 6 months old and will have completed a period of approximately 1 year and 1 month of service as an acting judge.
- 4.2. If appointed, the candidate would be eligible to serve as a judge for approximately 16 years and 5 months until the age of 70.

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

- 5.1. No information at the disposal of the reviewers indicates that the candidate is not personally committed to the values of the Constitution.
- 5.2. The candidate is a member of the South African Chapter of the International Association of Women Judges, and the Black Lawyers Association.
- 5.3. The candidate records in her questionnaire that she mentors women high school learners and university students and addresses community groups on domestic violence and protection orders. She also records that she addresses women employed in correctional services on topics aimed at empowering them.

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

- 6.1. The candidate appears to have extensive knowledge of criminal law. She refers in her questionnaire to a judgment in which she convicted a man of multiple counts of rape on the basis that he had committed successive penetrative acts of different orifices of the victim and with different objects. On appeal all the way up to the Constitutional Court, this conviction was upheld as not amounting to a duplicate conviction for a single crime.
- 6.2. The candidate has trained other regional Magistrates on the implementation of the Criminal Law Sexual Offences and related Matters Amendment Act.
- 6.3. The candidate's experience of civil law appears to be more limited. The candidate's

questionnaire does not disclose the level of the candidate's knowledge of constitutional law.

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

7.1. According to the candidate, none of her judgments have been taken on appeal.

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

8.1. The candidate worked as a public prosecutor for approximately seven years, eventually holding the position of Control Prosecutor for the District and Regional Court.

8.2. She has been a Magistrate for almost 20 years, for 10 of which she has been a Regional Magistrate.

8.3. Although she was admitted as an advocate in 2004, it does not appear that she ever practised.

8.4. The candidate's experience in criminal law is extensive, given her career as a prosecutor and Magistrate.

8.5. She has recorded her experience in civil matters to be limited to family law matters in the Magistrates' Court. Her experience in other areas of the civil law appears to be limited to her acting stints. It is unclear whether the candidate has any experience in constitutional law.

8.6. The candidate acted as a judge in the Western Cape division for more than a year over the course of 2022 – 2023.

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. According to the candidate, none of her judgments remain outstanding.

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's questionnaire did not provide sufficient information to draw any conclusions about her extra-curial administrative abilities.

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

14.1. The candidate has a good record as a Magistrate and has handed down judgments as an acting judge in different areas of law.

14.2. Her perhaps limited exposure to the civil law may send the message a broad understanding of the law is not a necessary requirement for appointment as a judge of the High Court.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. None

Unreported judgments

2. None

Judgments upheld on appeal

3. None

Judgments dismissed on appeal

4. None