

JSC INTERVIEW ROUND: OCTOBER 2024

VACANCY: JUDGE, WESTERN CAPE DIVISION OF THE HIGH COURT

MS REHANA KHAN PARKER

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. Proc, UNISA (1989)

1.1.2. Certificate in Labour Law, University of Cape Town (2000).

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

1.2.1. admitted as an attorney in 1993.

2. The candidate's integrity and ethics

2.1. The JSC requested candidates to disclose any circumstance that would cause embarrassment in undertaking judicial office to which the candidate answered "no".

2.2. In the matter of *The Ebenhaeser Communal Property Association and Others v The Minister of the Department of Rural Development and Land Reform and Others* (LCC05/2015), however, Meer J awarded costs *de bonis propriis* against the candidate for failure to follow directions issued by the presiding judge at a pre-trial hearing. This information was not disclosed by the candidate.

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 Indian woman.

4. The maximum period the candidate could serve if appointed

- 4.1. At the time of the interviews, the candidate will be approximately 64 years old and will have completed a period of approximately 9 months of service as an acting judge.
- 4.2. If appointed, the candidate would be eligible to serve as a judge for approximately 10 years and 11 months until the age of 75.

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

- 5.1. The candidate's professional history demonstrates a strong personal commitment to the Constitution and its values. She has been involved at a leadership level in community organisations and in the field of law which are committed to the achievement of equality and transformation of the legal sector.
- 5.2. The candidate also demonstrates a history of acting *pro bono* in human rights matters concerning women and the poor.

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

- 6.1. As an attorney, the candidate appeared primarily in the Magistrates' Court in divorces, criminal matters, and civil cases.
- 6.2. Her appearances in the High Court are limited to admitting attorneys, representing the LPC and its predecessor in striking off practitioners accused of misconduct, in pre-trial conferences, and in personal injury claims. The candidate also indicates that she has appeared in the Equality Court and in RAF arbitrations.

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

- 7.1. The candidate indicates that none of her judgments have been taken on appeal.

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

- 8.1. The candidate's experience is primarily that of an attorney in practice for 31 years.
- 8.2. In addition, during the period from 2004 till June 2024, the candidate served as an acting judge for a total of approximately 9 months. She has apparently authored only 4 judgments.
- 8.3. The candidate indicates that in terms of her litigation experience, 5% is in criminal law, 15% in administrative law, 1% in constitutional law, and 2% in labour law. The candidate indicates that 70% of her practice is in personal injury, tax, shipping,

intellectual property, and divorces. She also claims to have experience in intellectual property, heritage law, evictions, family law, public liability, estates, trust administration, commercial law, property law, debt collection, and medical negligence.

8.4. As an attorney, the candidate served as an instructing attorney in two matters which have been reported but did not author any judgment which was reported.

8.5. Given that the candidate has relatively little experience when appearing in the High Court and only referred to four judgments penned as an acting judge, the candidate's proficiency in law is not clear.

9. The candidate's linguistic and communication skills

9.1. The candidate's judgments are written in English and Afrikaans and nothing in these judgments indicates that the candidate's linguistic and communication skills are not adequate.

10. The candidate's ability to produce judgments promptly

10.1. On 11 June 2024, the candidate indicated that the following three judgments were outstanding:

10.1.1. *Bright Glacier Trading (Pty) Ltd & 1 Other v K2015388659 (SA) Ltd & 5 Others* where judgment was reserved on 24 April 2024;

10.1.2. *S Kantso & 52 Others v City of Cape Town* where judgement was reserved on 6 April 2024; and

10.1.3. *N Viljoen v G G Lotz & 3 Others* where judgment was reserved on 7 May 2024.

10.1.4. These judgments were outstanding for less than three months.

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 served on numerous boards including:

13.1.1. The Independent Development Trust, 2021 to present;

13.1.2. The South African Heritage Resources Agency July 2022 to present;

13.1.3. South African Geographical Names Council 2021 to present;

13.1.4. Mandela Bay Theatre Complex since January 2-24; and

13.1.5. Legal Aid South Africa since May 2024.

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

14.1. Although the candidate has acted as a judge for approximately 9 months over the past ten years, she appears to have only delivered four judgments, none of which has been reported.

14.2. The message her appointment would send is that experience is not a deciding factor in the appointment of judges.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. None

Unreported judgments

2. *Kabwana v The State* (15 September 2023)
3. *WESBANK v Naidoo N.O.* (25 January 2024)
4. *Campbell v The Minister of Police* (22 April 2024)
5. *S v Waterboer* (30 January 2004)

Judgments upheld on appeal

6. None

Judgments dismissed on appeal

7. None