



**Judicial Service Commission Interviews**

**7 October 2016, Morning Session**

**Limpopo Division of the High Court (Deputy Judge President)**

**Interview of Judge N F Kgomo**

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Chief Justice Mogoeng: Good morning Judge Kgomo. I made the assumption that you do not require assistance to settle down for the interview but let me confirm, are you settled down or do you need any assistance in settling down?

Judge Kgomo: Good morning chair. I am settled down. Thank you very much

Mogoeng: Judge Kgomo, you know that this is a leadership position you have applied for. It requires some leadership skills; it requires a vision, at least for the Division you wish to be appointed to lead. Would you share with us what vision you have for the Limpopo Division, that you will share with your JP?

Kgomo: Thank you honourable chair. First, let me tell this Commission who I am and what I am capable of. I have been judge of the High Court of South Africa for the past nine years. In that position I have occupied several leadership positions in the course of my work. I know that I still have eight years to go. When we look at the general trend in the industry average is that when you appoint somebody in a managerial position, the period is normally five years. I submit honourable chair, I have had enough time to transform and build Limpopo High Court into what it should be. It is a new court, the first in democratic South Africa. We have the best building in the whole of South Africa. Even the Con Court does not compare, honourable chair, with the splendour that is Limpopo court and we intend to keep it as such.

I have already taken upon myself to talk to the members of staff in that Division because I have the experience from Johannesburg Court where I come from.

First honourable chair, I come from the civil service. When I completed my degree in 1975, I was appointed into civil service as a public prosecutor and subsequently as a magistrate. I was in the civil service for fourteen years. In that period, I had the opportunity of leading, writing reports for the civil servants, dealing with directives as and when directed by the head of the office. That nurtured

my leadership qualities from the beginning. Honourable chair, I was even trusted with very serious duties. For example, whenever people were at loggerheads with the authorities, I was always the person who was directed to go and mediate. I always mediated fairly and successfully.

When I became an attorney, I was the second in charge in our firm, I only worked for one firm until I was called to the bench. I was a loyal person who worked dutifully, I was the prime minister in charge of the day to day running of the firm. The senior partner attended Law Society meetings, Black Lawyers association and I was in charge of the day to day running of the firm. I can report with pride, that after I joined that firm, we grew it into one of the biggest black owned firms in that area, spreading into Gauteng and Mpumalanga and all over until we were both called to the bench, kicking and screaming.

When I joined I was appointed to the Johannesburg Gauteng Division. From October 2014, I was seconded to the Limpopo Division to come and assist the JP Makgoba, to start the Division. I found that things were not in place. The staff did not know what was expected of them in the High Court. They did not have the requisite experience for the High Court. I had to use my experience from throughout the years to tutor them into what is expected of them, doing so tactfully so as to not hurt their pride.

Now I come to the issue of what I propose to do if I am appointed to this Division. It is my duty as the DJP to act as the prime minister to the Judge President who will be dealing with meetings and other issues as required. The DJP is the person on the ground, dealing with all issues, such as how the court runs, liaise with the management, continue teaching the lower staff. Limpopo is a new Division. I have already started to accumulate forms that are used in the various criminal and civil sections in the High Court. I have liaised with the registries in Johannesburg and Pretoria outside the knowledge of my JP to get Forms that are in use in Court, so that we can adapt for making matters work smoother in the Limpopo High Court.

I propose that because the staff in Limpopo have not been dealing with operational issues, I propose, as I already have to the JP, that at least for a month or so, every week we send a representative from the High Court of Limpopo to understudy people in Pretoria and Johannesburg. We have been showing them how to do things but it is better for them to see first-hand how the processes take place. We need to work smoothly with the magistrates on the ground. It is the duty of the DJP in consultation with the JP -

Mogoeng: I am sorry to interrupt Judge Kgomo. How much longer are you planning to go on, as I see you are reading?

Judge Kgomo: No no, I am not reading chair, it's just -

Mogoeng: How many more points do you still have to go?

Kgomo: Only two points.

Mogoeng: Okay, please make them quick.

Kgomo: I will do so. Let me come to the most important issue also honourable chair. The transformation imperative. Limpopo has its women, not in the sense of the female species homo sapiens, but women of substance. We have such women in Limpopo, unfortunately most of them who are capable have been assimilated into the civil service where there are Mercedes Benzes and BMW. There are very few who are functioning on the ground. We need to induct women and have

them as judges and create a pool from which they can be appointed. It will be my duty if appointed as the DJP to bring in women to act as judges so that they can take over from the existing men.

Furthermore, I submit that as an older and mature person, I am the right person to mentor them so that they are ready to take over.

Mogoeng: I welcome JP Makgoba of the High Court and Mr Singh who is representing the Premier.

Judge President Makgoba: Thank you CJ. Judge Kgomo would you say that your appointment as the DJP of Limpopo will be - CJ I see somebody raising their hand.

Commissioner Malema: I wanted to let the JP know that the procedure is that you note us.

Makgoba: Thank you Chief Justice. Let me repeat the question. Judge Kgomo, would you say that your appointment as the DJP of Limpopo will be in line with the succession in the Province? I say this because you are now 66 of age, three years older than your JP. It may be that you will retire before your JP, or the two of you will retire at the same time. Are we not going to leave a succession gap? Isn't it prudent that a younger person may be groomed while the JP is still on duty?

Kgomo: I do not believe that it will be any disservice if a person of my age is appointed as the DJP. This is an extraordinary situation where we are having a new Division. I submit that you need a person of my age and experience who still has some eight years to go, to take up the position. If the younger people are anything of substance, they will take it upon themselves to learn from this experience. It is true that the JP is three years younger than me, but I still look a whole lot younger than some of the younger people. I am still energetic enough to guide the younger people.

Makgoba: It is a fact that you have been my candidate attorney and when you qualified in 1993, we worked together for 14 years before I was appointed to the bench, and you followed suit. If you are appointed, wouldn't it create the perception that the firm is in charge again, as if we were creating a dynasty in that division?

Kgomo: Honourable chair. You can't put a good man down. I believe that the people of Limpopo are intelligent, and will know that what is good should not be suppressed. It is also common cause that I was instrumental at growing that firm into what it was. It is evidence that we need to partner again so as to partner this wagon out of the river. I know where to grease this wagon. I know what you think and how you behave and you know how I can deal with member of the public as well as staff. I always make friends with them and they always trust me like they always do in Limpopo. They come to me for problems though I reel to them to the procedural functionaries. I am the right person for you, sir.

Mr Singh: Thank you CJ. Judge Kgomo, the CJ asked you what you can bring to the table in terms of leadership skills, you mentioned that you created some criminal and civil forms. What was the situation that necessitated the forms, and how do they reform issues?

Kgomo: When I came to Limpopo, I realized that there were no forms to work with in the Division. I had to look back at where I had come from, and how things were here. The forms helped the officials to organise the files. I taught the registrars the value of assigning ushers and stenographers and establish a routine. The processes and procedures I started in Limpopo are still working, and the JP can tell you what I have done to bring the court to where it is today. If I am allowed to continue with the work, I will do it with more vigour.

Commissioner Malema: I just want to ask one question. Thank you CJ. Judge Kgomo, I just want you to repeat that statement about intellectual women, what happened to them?

Kgomo: I was saying that we need women of substance, not just because it is a woman. We have such women in Limpopo. Not just because one is a woman, but women of substance, who will come and be a credit on the Division. That is what I meant, I did not mean to cast aspersions on the women, I meant that we need women of substance, such as those that we have here.

Malema: Judge Kgomo, I will ask you to repeat what you said about women of substance, about BMW and Benz, please repeat that.

Judge Kgomo: Oh yes, I was saying, maybe I may have put it the wrong way, I was saying, the many women who I've seen entering the profession as attorneys, mostly didn't last. After they finished their articles they would always be offered positions in the civil service, and normally the positions that they got, sir, were positions where they were going to be entitled as a norm to expensive motor vehicles. Which I thought maybe was an enticement that was impoverishing the attorney's profession, with a sense that at the end of the day, that lady joining the civil service as a legal advisor is lost to the profession. When the time comes for us to look for women who can come and act and gain experience, she is not there because she is in the civil service, not as a magistrate, not as a prosecutor. We have lost a lot of very capable young women, who are comfortable now and ensconced in very cushy positions in the civil service. Whereas if they were on the ground -

Mogoeng: Judge Kgomo, it would help us a great deal if you could just focus on the question put to you and answer it as briefly as possible. If they need elaboration, they will say so. Don't volunteer it, please.

Malema: Judge Kgomo, it is becoming more difficult for me sitting here listening to judges who is supposed to lead by example becoming spinners at the same time. You don't have to spin anything. I am asking you to repeat the sexist remark you made that women of substance are not in the profession because they went to opportunities that provide Mercedes-Benz and BWM, creating an impression that women are after material things such as BWM and Mercedes Benz. Is that not a sexist comment?

Kgomo: It was not meant to be a sexist statement. It was meant to be a factual statement of what actually happens on the ground. Not that I was casting aspersions on the women. It is happening where we have lost younger women who have gone into the civil service and are lost to the profession, that's all I meant, not as a sexist statement.

Malema: But you are repeating it, you are saying it is a fact that women chase material – you are saying it's a fact, it's not a fact that women are chasing BMW and Mercedes Benz, that's a sexist statement.

Kgomo: No sir. What I'm saying about it being a fact is that it is so that, after qualifying, instead of remaining in the profession where we can pick on them, we normally lose them to the civil service.

Malema: And then the younger generation, what is your view about mentoring and upbringing of younger people in the profession?

Kgomo: It is our duty, it is my duty as an experienced member of the profession to mentor any younger people that are there, like they are doing. Every now and then they will always call on me and I would always help them with whatever things they need in the process of building them up in the profession, and I've done that regularly.

Malema: So if we find a young person, don't you think this JP is capable enough, with the experience he has, to mentor that young person to become one of the best, so that that young person can continue the legacy which you and the JP can leave?

Kgomo: It may be correct, but the fact remains I believe that the JP needs me at the moment because most of the time as the head of the court he is absent from the court. This court starting now, it needs someone like me, who will be on the ground mentoring these younger people.

Malema: Let me just simplify it CJ. Is the JP experienced and capable enough to can mentor any young person to become one of the best JP's in the country? Let's not talk about you, just your view about the capacities and capabilities of our current JP to mentor a young person and make sure that that person becomes one of the best judges in the country.

Kgomo: Perfectly, honourable commissioner. Our JP is very capable of doing that job. The only disadvantage is that he is not on the ground mostly.

Mogoeng: Let me just interject here. What do you mean by that, Judge Kgomo? I am the head of the judiciary and head of the Constitutional Court, I'm on the ground. And I have reason to believe that since I'm in charge of also the magistracies around the country, I am busier than the JP, and yet I'm on the ground for the judges of the Constitutional Court. Why would the JP not be available to mentor judges? What does he do that takes him away from his core responsibility?

Kgomo: Nothing takes him away from his core responsibilities, honourable chair.

Mogoeng: Why would he not be there to mentor?

Kgomo: That is why I said, he is capable of doing that job of mentoring.

Mogoeng: No, no, no, you say you'd be the prime minister, I don't know why you like this political title. You would be the prime minister while he is busy with other things. What is it that he would be busy with and where?

Kgomo: I only meant by the term prime minister, maybe it is an unfortunate term, that is because I will be most of the time in the court, either in Polokwane or Thoyandu, wherever the JP would have posted me, and acting to assist him -

Mogoeng: No, let's clarify it, I don't want the impression to be created that JPs are all over the show, away from where they should be. What is it that you think would take him away from the seat of court?

Kgomo: The only thing that would take him away is when he goes for these occasional meetings.

Mogoeng: Yes, like which one?

Kgomo: Like this one.

Mogoeng: And which other one?

Kgomo: Like the heads of courts meetings

Mogoeng: Which happens twice in a year. So why would he not be available to mentor?

Kgomo: He will be available. Maybe it is an unfortunate choice of words.

Malema: Do you admit that you are making the second unfortunate statement?

Kgomo: Yes, it was a mistake.

Malema: And that can lead to lack of judgment.

Kgomo: I leave it to the able decision of this honourable -

Malema: I'm not interviewing this honourable Committee, I'm interviewing you. The statement on women, Benz and BMW, and casting aspersion on the JP, and creating an impression that he is an absent JP, it's a serious misjudgement.

Kgomo: Yes, from what I have learnt and after the guidance from the Chief Justice, I realize it was an error on my part and I, clearly, am sorry for that.

Malema: Even the women statement was also an error on your part?

Kgomo: Yes, it was not meant to be as has come out and how honourable commissioner has analysed it. It was an innocent statement which could have some double edged sword, and I regret it.

Mogoeng: You know, let me tell you before other commissioners put questions to you, what concerns me. The statement you made in relation to your impact while in partnership with the JP as attorneys, is that the practice is not growing until you graced it with your presence. Only then did the practice grow. Also that the JP does not know what he's doing, he doesn't even know that certain forms are required for administrative purposes, and it doesn't even look like he knows where to obtain them. That is why people are not even coming to him, they're coming to you are more of a visionary leader, you are a more effective leader than he is, and you took it upon yourself to source forms from other divisions, a thing he ought to have done but failed to do. That's the unfortunate impression, and I put it no higher than that. And it doesn't even look like you asked him, JP can I do this, I'm doing this, you are the one now the public and people come to quietly on the side, you don't inform the JP, you don't even ask him whether you could assume that responsibility. One can only wonder what would happen should you become DJP now.

Kgomo: That is not the position honourable chair. I have taken my JP on board when it comes to these aspects, when we meet in our judges meetings. He can vouch for that. I've taken it up with him. What I was saying was that I have actively thereafter played a role in trying to source these documents, because we agreed that whatever can be helpful to the division should be done. I have not at any stage you honour, cast aspersions on the capability of my JP. I was just saying, after I came in, I've seen us prosper. Not that he was not prospering. He was a single man practice at the time I came in, and I was an able assistant to him.

Commissioner Motimele: Thank you chair. It quite a pleasure to see you from my province, we meet all the way in the Mother City. The question I am going to ask you, in all fairness I should tell you why, it goes to judgment and discretion. First question. Where I'm sitting, I represent the profession. The profession is crying out for transformation, in relation to work, briefing pattern, both black practitioners and women. And the standard excuse is, the good ones get grabbed by corporate and government, and they're running after Mercedes-Benz and BMW. Have you heard that before?

Kgomo: Yes, there are at times talk like that, but I don't subscribe to that, although I've heard of it.

Motimele: It will be insensitive, isn't it?

Kgomo: Yes, it will be.

Motimele: Next question, may I with respect direct your attention to the nomination form, page 3, paginated 3, the letter of nomination dated the 12<sup>th</sup> February 2016. And in this regard, I am worried by the extent to which you fraternize with your staff, from your comment that they come to you, you solve problem, they're scared to go to the DG, I just want to test something. I see that you are nominated, I read, there is the name of five of your staff members, 'we, in our capacity as staff members, of Limpopo Court, do hereby nominate judge Nare Frans Kgomo to be considered for the position of Deputy.' I'm interested at the level of these staff members who nominated you. The first one, Mwabi, at what level is she?

Kgomo: The first one is a judge's secretary. It's not my secretary. She is not having a permanent judge at the moment, she is working for acting judges.

Motimele: The next one, what is her level?

Kgomo: She is my personal secretary

Motimele: The next one, at what level is she?

Kgomo: This one I don't know. I found that she's working in the usher or a stenographer. But I don't know her personally.

Motimele: The last on is Motala?

Kgomo: Equally, I don't know this person, but I learnt she's working in the administration somewhere downstairs. I don't know this person.

Motimele: But you follow the point I'm trying to make? Junior staff at that level come together, have a meeting and nominate you, and you accepted.

Kgomo: Sir, I had no choice but to accept, If they nominate me -

Motimele: Very well. The last question, on page paginated 22 of the forms, your CV, right on top, subheading (i) religious and political affiliations, and you said retired member of the ANC.

Kgomo: Yes sir. I had to be honest.

Motimele: I hadn't asked the question. Would you like me to ask the question? Very well. At what age do you retire in the ANC?

Kgomo: When I was still in the profession, I had been a member, but the moment I was appointed to the judiciary, I had to let that membership lapse, because I had to be seen to be impartial.

Motimele: Jude Kgomo you don't say you resigned from a political party, you say you retired. I'm asking you at what age you retire in the ANC?

Kgomo: Maybe it's an unfortunate choice of words.

Commissioner Stock: Please give me a brief understanding of the logic of a nomination which has been done by a staff member? Do you approach these staff members to nominate, or did they nominate you themselves?

Kgomo: I did not approach the members of staff myself. At the time when the nominations for these positions came about, I was working outside court, and I was not aware of the nomination. But immediately I became aware and decided I'm going to put in an application, I approached my legal body, the Black Lawyers Association, for a nomination, and I waited for such nomination. Whilst I

was still waiting for that nomination, your honour, that's when I received this document as a nomination, and I felt like now that it is here I should just hand it, deal with it as part of the nomination. And as fate would have it, I've kept on enquiring from the BLA up till the day before the closure of nominations, I was told on that day, the evening before the day of nominations, that the BLA in Limpopo had decided that they had already nominated somebody. As a result, I had to use this, had I had the choice, I wouldn't have used it.

Stock: Judge Kgomo, will you agree with me if I say to you a Personal Assistant is somebody that works very close with you?

Kgomo: Yes, it is so.

Stock: Now, is it possible that your Personal Assistant can nominate you without you knowing that she or he has nominated you for whatever position, is it possible?

Kgomo: That is what had happened in this case, honourable commissioner. It has happened. I was not aware that she was part of the group that has nominated me until I saw the document. And I asked her on the day, why has she been part of that group, and she said that she had done it out of her heart, and I left it as such. It was not, no malice intended.

Stock: In regard to the unity and collegiality, the Judge President and also in context of the position you are applying for, if it happens that you are appointed for this position, do you think that there will still be a good working relationship between yourself and the staff members that have nominated you, including the Judge President?

Kgomo: There will be no change in the working relationship between me and the JP and the staff members. Whether I succeed or do not succeed in this body will not change my work ethic. I will still work as myself, because being a Deputy Judge President will not change how I would approach my work, as well as my relationship with my Judge President and any of the staff members. There will be no prejudice to anybody, and the work will be done like before.

Mogoeng: You know I get more and more concerned. Did you find this drafted already just waiting your signature, when you came back?

Kgomo: The draft I found the day before –

Mogoeng: No no no no, before you signed, did you dictate the nomination, or did you find it ready, just waiting for your signature?

Kgomo: It was just brought to me as it is.

Mogoeng: Who allowed them to use the letterheads of the judiciary? Because right at the top stands our logo now, Judiciary, Republic of South Africa.

Kgomo: I take it honourable chair, that because they're employees of the Department -

Mogoeng: No but that's only for a judge to use. You were not nominating yourself, under which circumstances you'd be allowed to use our letterhead. Is it the PA and ushers who were writing something, communicating to the JSC? Did you take it up with them that they are not permitted to use the letterhead and logo of the judiciary?

Kgomo: I did not, honourable chair.

Mogoeng: I raise it because you can just imagine how many other letters would go out with the logo, with the letterhead of the judiciary.

Kgomo: Unfortunately I did not take it up with them, it may be a very big mistake also on my part, I acknowledge.

Commissioner Nyambi: Thank you CJ. Judge Kgomo, I want to believe that you want to paint a picture for us to understand what you're explaining about the letter. Explain a scenario to us where you'll have your PA signing a document on your behalf and you don't have knowledge of the content, so that we can see that that is possible.

Kgomo: The PAs and staff of the court have access to the logos of the department on their systems. When I write letters from my office as a judge, I've got a particular, my own letterhead, with my name at the top. It's a possibility that they have used this document that they have on their systems to write this document. My secretary has also my letterhead on her system. How she used the governmental department logo is besides me, honourable commissioner.

Nyambi: Let's leave others and just talk about your PA. Now that you are aware that your PA has used a letterhead. What is your view about it?

Kgomo: It is wrong and I am going to bring it to her attention not to do it again.

Nyambi: I want to get it correct. You are just saying it's wrong and that's it? You are going to bring it to her attention that it is wrong and that is it?

Kgomo: I have apologized for the mistake that has happened, I'll abide by the consequences thereof.

Nyambi: Let us get to the practice that you ran with the JP. You said you were the brain behind the success. Will I be wrong to say, if you'll be appointed DJP, then you'll be the one running that Division, and it will be a successful Division?

Kgomo: No, the processes in our division are such that the JP is the one in charge. The DJP and any of the judges all work under the Judge President. There is no way I can run the division on behalf of the JP, whatever thing I want to recommend, I'll always go through the Judge President, who must approve of everything. If I come with an innovation, it will have to via and through the Judge President, at no stage do I run the division.

Nyambi: The comment about women. Will I be wrong anytime when I see a woman, because it presupposes that when I see a man I see somebody who's got capacity, who's efficient, who's dynamic, who knows it all, but when I see a woman I see somebody to see somebody who still has to prove herself. When I see a man, I don't have a man that has left legal profession to go and do other things.

Kgomo: No sir, that is no the intention of my unfortunate utterances. When I uttered these unfortunate words, honourable commissioner, I was trying to talk towards the issue of the transformation, of bringing in women, and I have shot off my mouth by talking about the BMWs and the things, I was just trying to indicate that very important women, and men of course, have left the profession, and they ought to be invited at times, as and when the need arises, to act as judges so that we have a pool from which next time we can appoint people.

Nyambi: I'm leaving by reading what you said in your previous interview. 'Honourable commissioner, language is a tool of a judge, or any person. In a responsibility position, language is a tool. It is

incumbant on the Judge resident to understand ..' I am talking about the choice of language, and it is the very same thing that you are displaying today.

Kgomo: It is so your honour, I'm human. I make mistakes. I have made several mistakes today, and I apologize for that.

Mogoeng: Commissioners, let us get back to the basics, let's get hold of time.

Minister Masutha: The first question relates to another aspect that you were confronted with. That is the casting of aspersions on members of the public service, regardless of the gender, that people who join the public service are after material goods and that the public sector is generally out to dish out material things that are not given in the private sector. I am concerned about the factual nature of that statement. Would you want to stand by your statement?

Kgomo: I was not casting any aspersions on the public service when I uttered these words. I was just talking to something that has happened, that I have seen happening. Not that the civil service is stealing people from the attorney's profession or the advocate's profession. The fact of the matter is -

Mogoeng: Sorry judge Kgomo, can you just answer the Minister's question directly please, and as briefly as you can?

Kgomo: As I have already admitted, it's an unfortunate situation that I said these things. I am not casting any aspersions on the public service in any way.

Masutha: The second follow up relates to the point that is being raised, that is the apparent indiscretion on your part in the use of language, which you will agree is the most critical tool of a judge in the execution of his or her duties. Would you agree that with the years of experience on the bench, you have displayed in many ways than one that you lack discretion in the use language, and if so, to what extent is this weakness impacting on your ability to discharge your functions as a judge generally?

Kgomo: I can, without any fear of contradiction, indicate to this honourable commission that in my work as a judge, as my cv would indicate, I've attached a list of decisions that I've taken, if any of them is read, my use of the language has been above par. And I have been able to do my work without any reckless use of language.

Masutha: You gave very positive feedback on the new court, which in large measure I agree with you on. But having said that, and having worked in the court now, what have you found to be teething problems? Have you found any challenges, even in circumstances where you have a new, and maybe Mercedes Benz court at your disposal?

Kgomo: Limpopo High Court is a new and very beautiful building, but it still has problems, hence the constructors are still on site. Now, when it rains, it still shows some leaks here and there. There are certain other minor aspects that are being discovered every day, whenever we discover, we report them to the relevant management people, and the constructors deal therewith. I still believe it will take some few months until everything is shipshape. But generally, the court is a credit to the judiciary.

Masutha: Do you believe that you are the right person to support the current Judge President, in ensuring that there is a coordinated response between all stakeholders in responding to these teething problems, and if so, what makes you believe that you are the best person for the job?

Kgomo: I am the right person I suppose, and believe, to be an assistant to the Judge President of the Limpopo Division. Whenever I have discovered something that is not working appropriately, I've brought it to his attention. I have never done anything unilaterally.

Masutha: The question was not about the earlier criticism about you taking over rather than playing a supportive role. I suspect that you are trying to correct that perception in answering this question, but that's not what this is about. The question I'm asking is whether you believe that you have the capability to play that supportive role and if so, how you see yourself as the best person to do that?

Kgomo: I believe I am the best person to assist and support the Judge President. My work ethic, my conscientiousness, my respect for authority will see to that.

Commissioner Schmidt: According to annexure B on page 23 of your nomination form, it is titled suitability for appointment as Judge President, I take it that Judge President's not yet retired, it's Deputy Judge President?

Kgomo: It's Deputy Judge President.

Schmidt: If you look at page 28, or page 6 of your annexure B, did you write this document yourself?

Kgomo: Yes I did write it myself.

Schmidt: You refer to yourself in the third person, but can I ask you to just explain the following statement, that you set up a motion court in Thohoyandou, to alleviate the need as the registrar there reported an upsurge of sum, and this is where my question comes in, 'of some general, semi-urgent matters', I'm not quite sure what that means, 'that needed to be dealt with as by yesterday'. Now that's a confusing statement at best. Would you please explain that?

Kgomo: It was during the recess at this period, and I was assigned, I was on standby in the Thohoyandou court at the time. Normally during the recess, especially in Thohoyandou and Limpopo, only urgent matters should be dealt with in that court. The practitioners somehow contrived to bring matters that were not urgent in the true sense of the word. That's why I've written they were semi-urgent, I had to deal with them, I could not just dismiss them out of hand, without having to hear them in court, and I only found they were not urgent, they were issues they wanted to get into the system through things that were not genuinely urgent. Using the term 'by yesterday', I was just over-emphasising that, as a matter of extreme urgency.

Commissioner Didiza: You are applying for a leadership position. You've also said administration is one of your strengths. If one were to refer to the earlier matter regarding what your subordinates have done in nominating you for this position, what does that say about issues of control, and what does it say about issues of oversight on your part?

Kgomo: As far as I'm concerned, these that my subordinate have done is not to influence the way I'm to exercise my control, as well as oversight over her and any other person. It is unfortunate, but it does not in any way derogate on my duty.

Didiza: I was just speaking about how you elaborated about your strengths, and what you had done in your practice before, and I would have assumed that these are some of the matters that would be uppermost in the way in which you exercise your leadership. So in this instance particularly, that you actually had to sign the acceptance of a nomination that clearly you should have seen had been done incorrectly, particularly in terms of the roles of your subordinates, being your PA in particular, and the access to the letterheads that she shouldn't have used. And that's why I'm asking, didn't that raise issues on your part about oversight?

Kgomo: At the time it did not, honourable commissioner, but I realize now that this ought not to have happened and it will never happen. It has opened my eyes, I have never gone through this type of situation where members of the staff would nominate me. At the time, I admit and acknowledge that I dropped the ball.

Didiza: With regard to issue that JP raised earlier, what the perception might be if you were appointed in this position, given that you once had a practice together. I didn't hear quite well what perception you think that might cause in the eyes of the general public, and the profession in particular?

Kgomo: I have indicated in my answer that the people of Limpopo and South Africa are intelligent people, all of them. They would, I assume, understand that the fact that I worked with the JP in a practice of law does not make any difference when it comes to working with him in management in the High Court, because I would always respect his authority. and work according to his strategic directives.

Didiza: So you believe that perception won't be a factor in this case?

Kgomo: I don't believe it will be a factor honourable chair, because they would see, those that are around, they would see that there is order, the JP's word is the final word in that Division.

Didiza: With regard to issues of women's emancipation and women playing a leadership role, what's your understanding of that?

Kgomo: It is important to fall in line with the general imperatives of this country, and what is required. It is correct that women need to be brought into the system as a matter of urgency, and I will always support any initiative that brings the right women into the right managerial positions. I am 100 per cent behind the empowerment of women.

Didiza: You will be doing only as a matter of compliance, or is it because you really believe genuinely that women can play a role in leadership positions?

Kgomo: I believe genuinely that women can play an important role in the development, especially of our courts. They have always been very good judges. I have worked with women judges, and normally I've even forgotten, we forget that they are women, find that they do better than some of us men. There are very good women in this country, honourable chair.

Didiza: Honourable judge, I must say that my worry, in your answers earlier to several questions that my colleagues asked, you kept on saying women are still young, they need to be groomed, those that – oh, you also said, we need women of substance, and I was trying to understand, what is this 'substance'? But also, you seemed, when it came to issues of women leadership, in the Limpopo Division, confine it only to women in Limpopo, as though women from other divisions in the country can't apply for leadership positions in Limpopo. I must say that it did worry me. But I think that the way you said it, it was, regardless that there may be all of these women who may show potential, in your view, they are not ready. They still need grooming.

Kgomo: Honourable commissioner, that is not my intention when I said that. By confining myself, I was just as a matter of example talking about Limpopo. It is true and so, that women from outside Limpopo, like they're always doing now, there are many women from other areas who come to act in Limpopo division. I was just saying it by way of example, but I didn't mean that we are restricting this to women in Limpopo only. I was just showing that we should bring up especially younger

women also, so they can acclimatised with the system from an early age. But I also mean that women in general should be given the opportunity to prove themselves.

Didiza: Should I see young men who are lawyers who go and work out of the judiciary, either in public service or private sector, driving Mercedes Benz, differently than I would see young women lawyers?

Kgomo: No, by mentioning the issue of the motor cars, it was just by way of example, trying to illustrate that maybe they were attracted, because it's a perk at such an early age to be driving such motor vehicles, maybe. I was just mentioning that it is happening, not that it is different, that they are not entitled to do so.

Didiza: If I was in Parliament I would have asked the judge to withdraw, because that is a very sexist inference, even if made as an example.

Kgomo: I apologize for that, honourable commissioner.

Commissioner Singh: Would I be wrong to assume, or even conclude, that had these four people not given you this nomination on the 12<sup>th</sup> of February, then you would not got a nomination? I note that one of the other applicants was nominated on the 3<sup>rd</sup> of February, by a Madam Justice, the second candidate was nominated by the very Black Lawyers Association that you requested on the 9<sup>th</sup> of February. Would I be wrong to conclude that you would not have got a nomination, unless these four people had done what they did?

Kgomo: Indeed honourable commissioner, it is common cause that had I not had this form, the day before the closing date, I would not have been here, it is a fact.

Professor Ntlama: On page fifteen of your questionnaire, where several of your judgments have been taken to appeal. Should we be concerned about your capacity in the interpretation of the law? Secondly, if given the opportunity as the DJP, would you be able to monitor the jurisprudence that will come out of your Division?

Kgomo: In law, my belief is, when they take your decisions on appeal, it is a credit rather than a disadvantage. Because higher authority is able to look at your judgment afresh, and decide whether you have done the right thing. Although my cases have been taken on appeal, none of them have been overturned meaning that jurisprudentially, I am up to scratch.

Ntlama: You were once questioned, on page 17 under question 3, you were once questioned as an attorney for not replying timeously to the enquiry?

Kgomo: It was one incident in the 14 years that I've been an attorney, when I had to appear before the Law Society on an issue where I had replied to a letter late. I acknowledged that, and I did not waste the Law Society's time, I admitted to my fault, and I was cautioned not to repeat it. It is a fact, and it's a very long time ago.

President Mpati: Thank you Judge Kgomo. You are excused.