



JUDGES MATTER

Judicial Service Commission Interviews

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Limpopo Division of the High Court

Interview of Ms A Lamminga

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Chief Justice Mogoeng: You hold a B Juris degree from which University?

Ms Lamminga: UNISA

Mogoeng: And LL.B?

Lamminga: Also from UNISA.

Mogoeng: And you were a prosecutor for some two years seven months, am I right? Was it in the District Court or Regional Court?

Lamminga: Both

Mogoeng: Both. For how long in the District Court?

Lamminga: District Court if I remember correctly was just over a year, and the remainder being in the Regional Court. When I was in the District Court I was awarded prosecutor of the year, voted by my peers.

Mogoeng: And you were an attorney for some seven years, were you not?

Lamminga: No, that's incorrect

Mogoeng: Is that so? Or were you still an attorney even when you were a magistrate?

Lamminga: No.

Mogoeng: Well let's look at it. After becoming a prosecutor for two years seven months, where did you go? I thought you then did articles of clerkship.

Lamminga: Yes I did.

Mogoeng: And then from 2001 to 2008 you were an attorney before you became a magistrate?

Lamminga: No it was until 2003, I was appointed to the District Court bench I think October 2003.

Mogoeng: Well let me read what appears under 6. I will skip the articulated clerk part. [Indistinct] Attorney, Professional Assistant, the 1st of August 2001 to the 5th of October 2003. And then Lamminga Attorneys, attorney, 6th October 2003 to the 31st of December 2008, that's where I get my seven years from. So correct me. Why is it not seven years?

Lamminga: Sorry Chief Justice, were are you getting that?

Mogoeng: I'm at paragraph 6 of the form. You get it? Paragraph 6, the next page. Just look for Thomason and Swanepoel. On the extreme left. Do you see it.

Lamminga: Yes, I see it.

Mogoeng: Is the period correctly reflected or incorrectly reflected?

Lamminga: No, it seems I made a mistake

Mogoeng: Okay. So for how many years were you an attorney then?

Lamminga: I was admitted and then I worked as a Professional Assistant at the same firm, Thomason and Swanepoel, I started there my articles end of January '98 -

Mogoeng: Articles? Well it says here - Okay, January '98. Oh, I see, the date is above. That's where the confusion comes from. Alright, but now I'm interested in the period during which you served as an attorney, both professional assistant and practising under your own name.

Lamminga: That will be from 16 March 2000, when I was admitted, until 5 October 2003.

Mogoeng: That gives us how many years?

Lamminga: Less than three years.

Mogoeng: And then you became a magistrate, is it 2003 then?

Lamminga: Yes, towards the end of 2003.

Mogoeng: Until now, and that gives us how many years now? Is it over 20 years? Because I had more or less 16 initially, but I had not calculated it the way I should. About 15 years? You were magistrate from 2003, is that it? Until now. That gives us about 13 years. Okay. And for how long did you act now? You acted in Gauteng, isn't it? For how many months?

Lamminga: It was in total 18 weeks. There's one error on the date if you look at paragraph 9.2 of the form. 26th February 2015 should actually be 26th January.

Mogoeng: Was it a challenge to act in the High Court, or did you find it relatively easier than a practitioner who has never written judgment, unlike a magistrate?

Lamminga: I think we have the advantage in that sense, that you are used to adjudicate, you are used to sit in court, listen, and adjudicate, and you are used to writing judgments, which I think, if I recall when I started as a magistrate, one of the most difficult things for me was, in the beginning, to get used to sitting up there and what is required of you while you are on the bench. And also in regards to judgment writing specifically, it is a skill that you develop. My judgment writing has evolved quite a lot, as I have been mentored, as I have read more and more judgments, as I've attended training in that regard, and also mentoring newly appointed regional magistrates. So in that respect I think I had an advantage, because you didn't walk into court, suddenly you on the other side of the room, with a completely different view to what you are used to. Other aspects of the acting I found quite daunting, specifically the fact that you are more under the looking glass, so to speak, and that you feel that everything you say, every decision you make is going to go out there will be criticised probably.

Mogoeng: I notice that you have offered training to fellow judicial officers under the auspices of SAJEI. What did you focus on?

Lamminga: It was only civil adjudication.

Mogoeng: For regional magistrates or both district and regional?

Lamminga: No, it was only for the Regional Court magistrates. There was a need for training that would be more than just basic training in civil adjudication. I volunteered to assist, for the simple reason that I felt I was stagnating, I need to get a new challenge, get something to force me to read, and to keep my enthusiasm. And it developed from there. We did the curriculum development for the workshops, we did the workbooks.

Mogoeng: Where did you do it?

Lamminga: Do you mean where? At home mostly.

Mogoeng: No no no, curriculum development for SAJEI is generally done by the planning and curriculum development committee of SAJEI, which then takes it to the council of SAJEI, which I am privileged to chair. That's why I ask, where did you develop that curriculum?

Lamminga: I'm not sure exactly where we fit into that the whole picture that you mentioned -

Mogoeng: You have representatives there.

Lamminga: There was a group of us, it involved Regional as well as District Court, and there was a workshop where we were split into groups, for example for Regional Court we had two or three people there who were tasked with the criminal work, and then two or three that were tasked with the civil. We had to work out how much training is needed, budgets, a draft of a curriculum for purposes of the workshops, draft programmes, and all of those things we had to draft there, and from there we had to develop the material to be used at the workshop.

Mogoeng: Yes. JP?

Judge President Makgoba: You have acted three months. Do you regard this as sufficient, really, to acquire working knowledge on the bench, more in particular as a judge?

Lamminga: JP, if we are just going to restrict ourselves to experience as a judge to be the definition of experience as a judicial officer, then yes, it would not be sufficient. But in my view, the fact that I have been a judicial officer for 13 years should count for something. The actual fact of the matter is, that there is very little merit placed, generally, on the skills obtained by magistrates and regional magistrates. The reality of the matter is, that in the Regional Court, we deal with the same type of cases that is dealt with in the High Courts, but under very difficult circumstances mostly. We have huge rolls that we have to manage, we are responsible for the case flow management of our courts, in my court for example I have a criminal roll as well as a civil roll, and I am the only regional magistrate serving that court. I deal with at least between three and four criminal trials per day, dealing with murder, rape, robbery, serial rapists, sometimes we even have cash in transit heists. If you look at seriousness of offences in the criminal court, we deal with exactly the same type of thing, just under more difficult circumstances, and under quite a lot of pressure to perform. So I feel that that experience, and also the fact that I have civil court adjudication experience, should count for something.

Makgoba: One may not have a problem with regard to criminal matters in the Regional Court. The Regional Court indeed has jurisdiction to hear civil cases, but I'd say on a limited scale. Would you say that knowledge acquired in the Regional Court will really make you suitable immediately to preside over civil matters in the High Court?

Lamminga: Yes, I do think so. The principles are the same. With the latest changes in the Magistrates' Court Rules, everything is being drawn closer to correspond with the rules of the High Court. Where previously there was significant differences in certain rules and the way they could be applied. A very good example is the fact that, for instance, in the magistrates' court, we also now have a general power of condonation of non-compliance, which we didn't have. The principles of delict, the principles of contract, all those things are the same, so I don't see that the fact that I did not do those type of cases in the High Court necessarily means that the fact that I did them in the Regional Court should count for less.

Makgoba: Further, don't you feel that you still need exposure, in terms of being carried along in further acting stints so that you can get more exposure in the High Court matters?

Lamminga: Any exposure would be beneficial to anyone. However, I feel I am ready. I thought long and hard about whether to make myself available for this, and I really considered the issue very carefully. And I feel I am as ready as I will ever be, probably.

Mr Singh: Good afternoon Ms Lamminga. I see on your questionnaire that you acquired your degree during 1993 and 1996. And further down on the questionnaire at 6.2 you list your, proportion of your litigation work in the different fields of law. And I see under administrative law and constitutional law you show 0%. I'm just interested to understand, and since 1996 you'd understand that the law in terms of administrative law and constitutional law have developed to a very large extent. Have you studied anything in those two fields of law since then, or do you intend to embark studying something in those two fields of law, since they impact a lot of the cases before the High Courts today?

Lamminga: I haven't done any formal study, other than what is contained in the questionnaire and in the CV. The only further study that I did consider and that I did start with, unfortunately I was unable to continue with it due to personal circumstances was studying towards a Master's degree in Information Technology Law. I have not done anything with regard to administrative law as such, or constitutional law, except what we work with on a daily basis.

Commissioner Notyesi: What motivated you to apply for the position of a judge? Why do you want to be a judge?

Lamminga: To answer that question is actually very simple. I landed in this profession quite literally by accident. I always thought I would be a medical doctor, from ever since I could remember that is what I was going to be, I was going to be a doctor. Then in 1989, I was in a car accident shortly before first semester exams for my first year of medicine. And I missed the exams, and I had to re-evaluate whether this was what I really want to do, because I had to start over. I missed too much work and I would have to start over, and I had to be sure that, this is going to take me 8 years, I need to be sure. And I met fantastic people who evaluated me, and said to me the closest I should come to the medical profession is a visit to my doctor. I do not have the personality to be a doctor, apparently. So they gave me certain options, and that is how my studies in law started. And I haven't looked back since, the law is this living creature that evolves and changes. It keeps you busy, it keeps you on your toes. That is what I need, I need something that can keep me on my toes, something that means a lot. Something that is significant, something that enables me to make a difference, a real difference. And the reason I want to be a judge is to take that one step further, because where I am now, I still bump into walls where you feel that you want to change something or something needs to be changed.

Notyesi: I am asking you that question because you acted for three months and you are exposed as a regional magistrate, correct me if I'm wrong, mainly on criminal cases and limited civil work?

Lamminga: I do not agree that my civil experience is as limited as you would suggest, with respect, commissioner. As I've indicated, if you look at my CV and my questionnaire, when I was appointed as a District Court magistrate, for the five years or so that I spent, I was the one dealing mostly with the civil work in that office, in addition to the criminal work. When I moved to the Regional Court, again, I was again the one that dealt with the civil work. I do consider that fact that I have that experience is not as limited as you think.

Notyesi: Suppose you are in a motion court, presiding in an application for the appointment of a curator bonis, what is your checklist in that file? In an unopposed motion.

Lamminga: First of all, the motion. Further, you will need the information pertaining to the curator that is to be appointed, as well as the consent of the person that wishes to be appointed I suppose, the information pertaining to what the circumstances that gave rise to the need for a curator bonis, the values involved, because the curator bonis will be dealing with the assets. That's all I can think of at the moment. But of course I will not consider such a an application without ensuring that I'm prepared when going in to court.

Mogoeng: District court civil cases, do you write judgements there?

Lamminga: Yes, you have to. Why would one not require judgments in the District Court in civil cases?

Mogoeng: I must say I've done a few, I never saw a judgment. Regional Court, have you written some civil judgments on civil cases there, that you can share with us?

Lamminga: Yes, I think I did include some in my bundle. There was a very interesting application –

Mogoeng: I just wanted to, a yes or a no.

Lamminga: Yes.

Commissioner Modise: Ms Lamminga, can I ask you an unfair question?

Lamminga: Always.

Modise: The Law Society of the Northern Provinces, they gave you a recommendation or a clearance certificate. Did you approach them?

Lamminga: For the letter, or for the certificate of good standing?

Modise: For the certificate of good standing.

Lamminga: Yes.

Mogoeng: You are excused, ma'm.