



JUDGES MATTER

Judicial Service Commission Interviews

5 October 2016 – Morning session

Gauteng Division of the High Court

Interview of Mr L Adams

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Chief Justice Mogoeng: What are your qualifications?

Mr Adams: Chief Justice, I have a Bproc from the University of Witswaterstrand, I am admitted as an attorney of the High Court of South Africa in the Gauteng High Court Division. I also have a right of audience in the High Court.

Mogoeng: When were you admitted as an attorney?

Adams: I was admitted as an attorney on the 11th of July 1989, and I attained the right of audience during 1998.

Mogoeng: In 1989, I was wondering as an article clerk, how much did you earn at that time? Because there was a stage when people were earning as a little as R200 per month.

Adams: I was in a fortunate position, because I was earning the princely sum of R450 per month.

Mogoeng: So, you have been admitted as an attorney for how long?

Adams: Just over 27 years.

Mogoeng: So where and where did you practise?

Adams: I have practised as a partner in a law firm Lindsay Keller in Rosebank in Johannesburg. Shortly after I was admitted as an attorney, I joined the firm on the 2nd of January 1991, and I became a partner around 1994/5, and I became the managing partner in 2006. So I have practised in this firm for most of my professional life.

Mogoeng: I heard you say you have the right of appearance in the High Court, how often have you appeared in the High Court?

Adams: Chief Justice, in my firm I act almost as an in-house counsel, before I got the right of audience I did all of my own appearances in the Magistrate Court. Subsequent to 1998, I do all of my own appearances in the trial court for starters, and in the motion court, if I have a motion I would appear there in my own matters. I also appear for matters on behalf of the other attorneys in my firm. I represent the Road Accident Fund, so I am in court, in the Johannesburg High Court almost on a daily basis during term. I have been running trials in the High Court shortly right after the year 2000.

Mogoeng: Judges never used to be friendly to counsel, did you find them to be friendly this time around?

Adams: I think they have finally come around to the fact that attorneys are as good as advocates, ironically when I appeared in my first trial I think it was around the year 2000. The whole atmosphere was very antagonistic towards us attorneys unfortunately, and the irony was that the judge that I appeared before at the time was one of the first attorneys to be appointed in the bench as a judge, but it didn't make much difference, I still felt the antagonism. Nowadays, it is a lot better Chief Justice, thankfully.

Mogoeng: For how long have you acted in the High Court?

Adams: I commenced acting during April of last year, I have done, inclusive of the last 6 weeks that I just did at the Pretoria High Court, so I have done a total of about 28 weeks scattered over a period of time –

Mogoeng: Since the 13th of April 2015.

Adams: Indeed so Chief Justice.

Mogoeng: And how did you find the experience, can you tell us about your experience? Do you think it has prepared you for the position you are applying for? For permanent appointment

Adams: I think so Chief Justice. I have been honoured and humbled by the fact that our JP has given me the type of work that I believe has prepared me for a position on the bench. I have covered most if not all of the spectra, and I have started off in the appeal court sitting with senior judges in criminal appeals. I have then subsequently did a few stints in the trial court in Johannesburg. I did unopposed motions, opposed motions, and I did one special motion and in the last stint, and I also did one week in the urgent court in Pretoria. I feel confident that I got the necessary exposure and experience to equip me, plus if one couples that with the 24 odd years as a litigation attorney practising in the High Court. I think I have the necessary technical skills to deal with this very pressurised position on the bench.

Mogoeng: Are you calmer and a bit more relaxed?

Adams: I think so Chief Justice, thank you.

Judge President Mlambo: We are not here to hit you or kill you we are just trying to test your competence and see if you fit for the position of a judge. I think the CJ has covered the number of areas that I was planning to cover with you. Just in short, the spreadsheet I have that I have shared with the JSC shows that you have 26 weeks as an acting judge. Does that exclude the last two weeks that you did recently in Pretoria?

Adams: Yes JP, it excludes the last two weeks.

Mlambo: You have done six weeks in the unopposed motion court, right? The reason I want to ask you the unopposed court is, how would you rate it? Is it an easy court? Is it difficult to sit in?

Adams: The unopposed court is a bit of a misnomer, it is a highly pressurised court JP as you would know, it deals with a multitude of very important matters. Just last week Friday in Pretoria I had an excess of 60 matters on the unopposed motion court roll in one day. I think I ended up with about 65 matters in the end. Although it was unopposed matters, it dealt with very important and significant issues and required that I read all the files beforehand, amongst all of those matters we also had opposed Rule 43, and a few opposed applications on some of the judgements

Mlambo: I ask you that question deliberately, because you are a managing partner in Lindsay Keller, and the type of work that you came across as an acting judge in the unopposed court, is it the type of work that your firm does?

Adams: We do a fair amount of motion court work and litigation in my practise.

Mlambo: My experience as JP and when I sat as a judge, although I've never sat in the roll call court because that is the DJP's domain. In the roll call court, that court is always packed in the morning but the faces you see are black, but you won't really know that

because you never in that court. But in the unopposed motion court where you have actually sat the faces are predominantly white. Am I right or wrong?

Adams: I think you are 100 percent spot on JP, but I also know that the faces in the trial roll court is mainly black because that's where I practise. I am in the trial roll court most mornings when the court is not in recess I can confirm that.

Mlambo: My view is that is the reflection of the briefing patterns we have in this country

Adams: Yes

Mlambo: But you would also agree with me that in unopposed court there are two important criteria that a judge must have, is to have read the files and know a varied field of law areas. Am I correct?

Adams: Absolutely, that is quite correct.

Mlambo: So you would rate it as a difficult court?

Adams: I most certainly do.

Mlambo: You have done a week in the urgent court this last term?

Adams: Yes, in Pretoria

Mlambo: How did you find it?

Adams: I was told that it was a lot more pressurised than I had experienced it, we did not have too many matters on the roll, I don't know what the reason for that, but it still required that we prepare thoroughly and properly for the matters that are on the roll prior to the commencement of the week. We didn't have many matters coming and crossing my desk off the street. There was one matter against the Department of Home Affairs, but on the whole I had to deal with matters that was on the roll beforehand. My experience in the court was pressurised, but I was able to handle that

Mlambo: You have also done four weeks in the opposed court, that is another difficult court, right?

Adams: Yes, I think that rates on the same level as the unopposed motions court, except that more often than not unless a matter is resolved you are required to write a judgment in most of the matters that are not resolved, because they deal with fairly complicated and sophisticated matters.

Mlambo: And that's the court where judges pick up reserved judgments?

Adams: Definitely.

Mlambo: One last question on the spreadsheet, you acted for a whole term in the fourth term of 2015?

Adams: Yes I did JP.

Mlambo: That was a normal judges load for the term.

Adams: Yes

Mlambo: And I know you specifically asked if I could put you in for a whole term. After that term, what was your view about permanent placement on the judiciary?

Adams: JP, it just reiterated my view that being on the bench is a very pressurised position, it requires a lot of hard and a lot of dedication, and unless you put in the necessary time, energy and the hours you run the risk of accumulating reserved judgements, but it was a challenge that I cherished it, I quite enjoyed my stay there and I'm pleased to say that after the completion of my full term stint I carried only two reserved judgments.

Mlambo: Just going to your list of judgements that I asked you to prepare, you've disclosed a total of 38 judgments in the spreadsheet.

Adams: Yes I did.

Mlambo: Now taking into account of the fact that you did a full term, and acted in difficult work areas, I could only come across one judgment that took you about three months to finalise the judgment, that's the matter of *Cook v Hasper Impala*. All the others were delivered in a shorter period, how were you able to do that?

Adams: JP, I think beforehand I prepare properly and thoroughly and I read, in the opposed matters for instance I make sure that I understand the issues involved and I also familiarise myself with the legal principles involved. By the time the opposed application is argued, I would have formed a *prima facie* view, and whilst at the same time keeping an open mind about the submissions that are going to be made at the hearing of the application, and as soon as the hearing is completed I immediately commence writing my judgment.

MEC Lusufi: Thank you so much honourable Chief Justice. Good morning Mr Adams. I can see that you matriculated in 1981, and you're one of the two people that passed matric

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Adams: Yes, we were at a school in Anadale, we had 18 students and I think we were the second matric class of that school, Anadale had just started out as a development. The pass rate that year was 6 out of the 18, so it was a lot less than what we have in nowadays. It was just a signs of the time.

Lusufi: My interest is your participation in transformation agenda, because if in 1981 in the 1980s this country was literally on fire, in 1981 up until 2006 when you joined the Black Lawyers Association. Does it mean you didn't have any interest in organisations and institutions that were promoting transformation?

Adams: Absolutely not. Whilst at university, I was at Wits University and I was a member of the black students society, and also by that I was, we were then members of the United Democratic Front at that stage, so we were very much involved in the politics of the 80s, in particular during the 1984', when I was actually staying on campus that year with the tri-cameral elections, so I was very much involved.

Lusufi: But why only join Black Lawyers Association? It's your choice, I am just asking as interest. Why did you only just join them in 2006?

Adams: After I commenced practising and admitted as an attorney, I basically launched myself into the practise of law. What I did was concentrating on training other lawyers and candidate attorneys which took up quite a lot of my time, I ought to or should have been involved more, but my involvement was more towards training other candidate attorneys that came up through the ranks in my capacity as an assistant in Lindsay Keller.

Lusufi: You say that you believe that empowerment should be applied to all levels of any organisation management or professional level. What does that mean?

Adams: What it really means is that often there is a perception that you need to transform at the level of management or partnership, which is one of my priorities, but in addition to that I also made sure that at the secretarial level and administrative level we brought in, trained and developed blacks into those position. You can imagine that when I got into the firm in the early 1990s it almost lily white'. If you walk into my firm nowadays is a total different scenario and a totally different set up, whilst I cannot take credit for all of that I think that we have done well to transform and to change the face of the firm in the manner that we did.

Acting President Maya: Good morning Mr Adams. I just want to follow up on the analysis of the work that you have done at the High Court through which your JP took you, I have noticed that you have not done any work on the criminal court, in the third court, and the tax court. Do you think that lack of experience, although I see that you have done a fair amount of work with criminal appeals, might disadvantage you if you are appointed?

Adams: I don't think so M'am, as far as criminal law is concerned in my early years I actually did a lot of criminal trials, but in addition to that whilst acting I also did a few criminal appeals, which I suppose it's not as good as running a trial or overseeing a trial, but importantly in criminal matters, the important issue is that one needs to be able to assess the facts of the matter and that is a skill that I believe I have acquired over the many years as a litigation attorney, so I don't think I am disadvantaged at all. As far as the third court is concerned, I think that is an equivalent of our special motion court in Johannesburg, and I have done one special motion as an acting judge during last year.

Maya: And you experience?

Adams: That was a very difficult and complicated matter, and it is one of the judgments that I have mentioned in my schedule, I found it very challenging, but again I think that I acquitted myself well enough.

Commissioner Singh MP: Just two questions which emerges from the CVs that you have submitted to us. I as very interested to see on page 3 that you held the position, well from a long time ago, from 1998 to 2003, as a member of the German Junior Chamber of Southern Africa, and in 1998 you were the director of the German Junior Chamber of Southern Africa. I am interested to know, what does this entail and what kind of work did you do there?

Adams: When I joined Lindsay Keller there was a big German connection for the senior partners at the time, was a German South African and we had very close links to Germany and the German business community in South Africa, there was a requirement and we did a lot of work on behalf of German South Africans. So it was suggested that on behalf of the firm I join the German Chamber of Commerce.

Singh: The second question relates to an item on your CV on page 7, you say that 'I think that, all things considered I have at least the technical knowledge to make a competent judicial officer'. What are the other characteristics that you believe make a competent judicial officer, and do you think you possess those characteristics?

Adams: I think one needs independent thought, be decisive, and have integrity, and the ability to separate yourself from the matters that you dealing with.

Singh: And do you think you possess those characteristics?

Adams: Yes Commissioner, I certainly do believe that.

Mogoeng: Thank Mr Adams, you are now excused.