



JUDGES MATTER

Judicial Service Commission interviews

04 October 2017

Gauteng Division of the High Court

Interview of Ms SNI Mokose

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CJ M. Mogoeng: Good afternoon Ms Mokose.

Ms S.N.I. Mokose: Good afternoon Chief Justice.

CJ M. Mogoeng: Are you well.

Ms S.N.I. Mokose: I am well, thank you. Hope you are well to.

CJ M. Mogoeng: Very well. If you can speak into the mike so that everybody can hear you. Which degrees do you hold?

Ms S.N.I. Mokose: I hold a BA Law and a LLB degree sir.

CJ M. Mogoeng: It's difficult to hear you.

Ms S.N.I. Mokose: I hold a BA Law degree and an LLB degree sir.

CJ M. Mogoeng: And for how many years have you been practising law?

Ms S.N.I. Mokose: I have practising law – I have been admitted since 1991. Which makes it 26 years as an admitted attorney.

CJ M. Mogoeng: And for how long have you acted as a judge?

Ms S.N.I. Mokose: I've acted as a judge for three and a half terms.

CJ M. Mogoeng: Three and a half terms?

Ms S.N.I. Mokose: That's right.

CJ M. Mogoeng: Now translated to months, that's more or less what?

Ms S.N.I. Mokose: To weeks, I can translate it quickly in weeks. It is about 47 weeks I have been working as an acting judge.

CJ M. Mogoeng: As at the time, your last acted where you settled and comfortable in discharging your judicial responsibilities or did you get a sense that you could use more time -

Ms S.N.I. Mokose: - No I think I, -

CJ M. Mogoeng: - To act?

Ms S.N.I. Mokose: I've been quite comfortable, with the acting stints that I have been doing. I think the last time I did do so I have been quite happy with the work that I have been doing.

CJ M. Mogoeng: Do you ever get to the point where you have kept a judgement reserved for such a long time that counsel had to complain, or you were embarrassed?

Ms S.N.I. Mokose: No, I haven't had that position.

CJ M. Mogoeng: What has been the longest?

Ms S.N.I. Mokose: The longest has been six months.

CJ M. Mogoeng: Six months?

Ms S.N.I. Mokose: Yes sir.

CJ M. Mogoeng: Are you comfortable with six months, or a bit uncomfortable?

Ms S.N.I. Mokose: Well I am a little bit uncomfortable about it. I will admit because – but I think I was struggling at first with judgement writing. And also, not so much judgement writing as a whole, but it was more judgement writing of civil trials. The opposed motions and as well as the criminal appeals they would actually go through quite fast. In fact, regarding the opposed motions, I would – I endeavour to hand down the judgements down in the week that I hear the matter. And the longest that those had ever been outstanding is a week.

CJ M. Mogoeng: But as a practice, for how long do you keep judgements reserved, on average? More or less?

Ms S.N.I. Mokose: I think maybe I could say three months on average. When, ja.

CJ M. Mogoeng: JP?

JP D. Mlambo: Thank you CJ. Ms Mokose, good afternoon.

Ms S.N.I. Mokose: Good afternoon CJ, JP.

JP D. Mlambo: You've seen your spreadsheet in front of you, about what you've done. The spreadsheet reflects that you did 7 weeks of criminal trials. Do you have a comment about that?

Ms S.N.I. Mokose: Yes, I do. That is supposed to be 7 weeks of criminal appeals.

JP D. Mlambo: Okay, thank you very much. You've never done a criminal trial?

Ms S.N.I. Mokose: No, I haven't done criminal trials.

JP D. Mlambo: Yes, but you've done a lot of criminal appeals.

Ms S.N.I. Mokose: Yes, I have.

JP D. Mlambo: You've sat twice in the urgent court, and you've had a third court matter.

Ms S.N.I. Mokose: That's correct.

JP D. Mlambo: How many days was it enrolled for?

Ms S.N.I. Mokose: The third court, it was enrolled for four days.

JP D. Mlambo: And how long did it take you to finish it?

Ms S.N.I. Mokose: We finished it in two days.

JP D. Mlambo: Good. Now your CV and your form, your questionnaire reflects that you are a property law specialist. Am I correct?

Ms S.N.I. Mokose: That's correct.

JP D. Mlambo: And that's what you focused your attentions a lot more.

Ms S.N.I. Mokose: That is what I've been focusing my attention on, in practice.

JP D. Mlambo: So, you studied yourself for the property law specialist.

Ms S.N.I. Mokose: I am a property lawyer.

JP D. Mlambo: A property lawyer, sorry okay. And you've chalked 10 weeks in the opposed motion court despite that you've said you've not reserved for longer than three months, except for that one that was six months.

Ms S.N.I. Mokose: That was a civil trial in respect of opposed motion. I have not reserved a matter past one week.

JP D. Mlambo: Thank you very much, Chief Justice.

CJ M. Mogoeng: Thank you Judge President. MEC?

MEC: I am also fine Chief Justice, thanks.

CJ M. Mogoeng: Thank you very much MEC. Judge President Hlophe?

JP J. Hlophe: Thank you Chief Justice. Good afternoon. As a black woman have you or have you not experienced any form of racism in the profession or on the Bench, for example whereby white male advocates appearing before you would talk down to you – upon you. Or some of your white male colleagues would treat you less of a judge?

Ms S.N.I. Mokose: I've had not had it whilst I've been on the Bench, but as an attorney it did happen. And having started my practice in the early 1990's I did experience that in the early years of my practice.

JP J. Hlophe: - Follow up CJ, where you to be recommended, by this Commission, for appointment as a permanent judge, do you have any ideas as to how you can

assist the leadership of the judiciary to address this evil called racism, and sexism, they go hand in hand more often than not.

Ms S.N.I. Mokose: If I was to be recommended, I would definitely give the support to the judiciary in trying to eradicate sexism and racism within the profession and definitely at the Bench.

CJ M. Mogoeng: Thank you JP. Commissioner Fourie?

COMM Fourie: Thank you Chief Justice. Good afternoon Ms Mokose.

Ms S.N.I. Mokose: Good afternoon Commissioner Fourie.

COMM Fourie: As is customary I need to disclose that we've known each other for quite a number of years.

Ms S.N.I. Mokose: That's correct.

COMM Fourie: There is however, one issue and it relates to reserve judgements that I feel compelled to raise with you. And I appreciate that it might have a detrimental effect on your application. But nevertheless, I must in the exercise of my duties here raise it with you. That is a matter, the case number 28901, it is a matter – a trial matter of Rodney A Love vs The Attorneys Fidelity Fund; does that ring a bell?

Ms S.N.I. Mokose: It does sir.

COMM Fourie: My information is that judgement was reserved on the 9th of November 2016. Can you recall that?

Ms S.N.I. Mokose: I do.

COMM Fourie: Is that correct?

Ms S.N.I. Mokose: That is correct.

COMM Fourie: My information further is that on the 19th of June of this year, that is more than 7 months later you only gave an order.

Ms S.N.I. Mokose: That is not correct sir. A judgement was handed down. I handed down the judgement down personally. Arrangements were made for both parties to be present in Court, and that is what happened.

COMM Fourie: Okay. I'll get back to that. I just want to complete with the information that I have. It is – the information further is that because only an order was given on the 19th of June, on the 20th of June 2017 you were requested for reasons.

Ms S.N.I. Mokose: That is not correct sir as I said, I had actually handed down a judgement.

COMM Fourie: And my information further is that a written judgement was only handed down on the 1st of September 2017, and that an application for leave to appeal is now pending against that.

Ms S.N.I. Mokose: I have no knowledge. I have not as yet not been advised that there is an application for leave to appeal, but the judgement was handed down. It is a judgement which I had written, and I read into the record –

CJ M. Mogoeng: If you could speak up a bit. If you could speak up a bit mam.

Ms S.N.I. Mokose: On the 19th of June, I had actually written a judgement, and I read it into the record. And it was handed down. It was a full judgement. It was not an order.

COMM Fourie: Okay, so you say the information that on the 19th of June only an order was given is incorrect?

Ms S.N.I. Mokose: That's is correct sir.

COMM Fourie: Okay, and that on the 19th of June you also delivered a written judgement?

Ms S.N.I. Mokose: I delivered a written judgement.

COMM Fourie: Can we then just turn to the four reserve judgements that you list in your questionnaire under 9.5. What is the current status in respect of those reserve judgements?

Ms S.N.I. Mokose: They have all been handed down.

COMM Fourie: When were they handed down?

Ms S.N.I. Mokose: I just need to get hold of the list, if you'd excuse me a moment.

CJ M. Mogoeng: I think to contextualise it, as you go through it, read – when you come with a response say when was it reserved. When was it handed down so that we can appreciate the length.

Ms S.N.I. Mokose: I will do sir.

COMM Fourie: The dates that is was reserved, is on the questionnaire, and you could perhaps just confirm that.

Ms S.N.I. Mokose: I'm just trying to get hold of the page of the questionnaire if you will excuse me one minute sir. 9.5?

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COMM Fourie: 9.5, page number 19 [inaudible 12:05]

Ms S.N.I. Mokose: Norseworthy and Invest Gold, the closing argument were handed down on the 28th of April, judgement was handed down on the 7th of September 2017; Oates Architects and OSR Holdings, the matter was heard on the 1st and the 2nd of June 2017, judgement was granted on the 30th of August 2017; Nel and Mr Price Group, that was actually leave to appeal and that was handed down -

CJ M. Mogoeng: Just indicate when was it heard before you come to the handing down.

Ms S.N.I. Mokose: It was heard on the 14th and 17th of October 2016, judgement was granted the 24th of March 2017. And the leave to appeal, I don't actually have the date here – but leave to – that reference to it at 9.5 was the leave to appeal. And I think I probable handed it down the following week. And then Harris and Car, it was reserved. Harris and Car, was reserved on 2 May 2017, and judgement was granted on the 20th of September 2017.

CJ M. Mogoeng: Commissioner are you done?

COMM Fourie: I'm done thank you. I just wanted, perhaps Chief Justice to, because it was discussed at the Sifting Committee Meeting. The issue of citizenship and permanent residency. In your application you say that you are a permanent resident, that you have applied for citizenship and that you have been advised that it will – it should be finalised soon. Now that was at the time of your application. Which was signed on the 30th of June 2017. What has happened in respect of that since?

Ms S.N.I. Mokose: My citizenship has been approved, I am just waiting to be sworn in by the Minister.

COMM Fourie: Thank you Chief Justice.

CJ M. Mogoeng: Thank you Commissioner Fourie. President Maya.

PRES M Maya: Thank you Chief Justice. Good afternoon mam.

Ms S.N.I. Mokose: Good afternoon President.

PRES M Maya: I have just one question for you. And it relates to the disciplinary proceedings to which you were subjected to the Law Society, some years ago.

Ms S.N.I. Mokose: Yes mam.

PRES M Maya: And you were found guilty and sanctions were imposed. Can you just explain the circumstances that gave rise to the charge?

Ms S.N.I. Mokose: It was a charge of failure to furnish my auditor certificate. The certificates were subsequently furnished, and I was – I had to attend a disciplinary committee and I was given a sentence of 10 thousand Rand, which sentence was suspended for a period of five years.

CJ M. Mogoeng: Thank you President Maya. Professor Doctor Motshekga?

Dr Motshekga: Have you experienced any racial discrimination in the Courts? If so, what practical measures do you think should be taken to address that?

Ms S.N.I. Mokose: I personally have not experienced any racism within the Court.

CJ M. Mogoeng: Thank you very much mam, you are excused.

Ms S.N.I. Mokose: Thank you.