

## Judicial Services Commission interviews

5 October 2015, afternoon session

### Gauteng High Court

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**Ms NP Mali**

Deputy Chief Justice Dikgang Moseneke: Ms Mali, why do you want to become a judge?

Ms NP Mali: I want to dispense justice.

Moseneke: What is justice?

Mali: Justice is what the Constitution accords the people. It is their right to have their disputes resolved in a fair and efficient manner, within Constitutional precedents.

Moseneke: You grew up in Ngangelizwe, Mthatha. What was your childhood like? What connection do you make between your childhood and your current aspiration to become a judge?

Mali: We didn't have much in Ngangelizwe. There were bucket toilets, whole families shared single rooms. But we were all equal. There were schools, most people went to the same one. I wanted to become a judge to escape from this life. We saw the big houses and the school for whites in Mthatha, and I had a desire to become educated, to live a better life.

Moseneke: That led you to an LLM in Tax Law. Why tax law?

Mali: I did commercial subjects at secondary school, and I wanted to do a BCom, but my mathematics was not good enough. Law was my second choice, but I found that I could get satisfaction in commercial law.

Moseneke: You've changed employment frequently. Can you explain why?

Mali: It was out of a desire to understand the practicalities of tax.

Moseneke: How is your law firm doing?

Mali: We mostly deal with tax law, and things are going well.

Moseneke: Who is your average client?

Mali: My average client is an individual, or a Black Economic Empowerment (BEE) client, and entrepreneurs.

Judge President (JP) Dunstan Mlambo: You've had nine weeks experience as an acting judge in the tax court, seven weeks in the opposed motion court, and three weeks in the urgent court, but you haven't done any criminal trial work. The comment of the General Council of the Bar (GCB) is that you need to be exposed to civil and criminal work. Do you agree?

Mali: I have some understanding of criminal law from the point of view of a prosecutor, which is how I started my career. I worked for seven years as a prosecutor for the South African Revenue Service (SARS), seconded to the National Prosecuting Authority (NPA). There were also some criminal appeal matters that I dealt with as an acting Judge, and I handled some tax evasion matters in my own practice. I don't think I will struggle in the criminal courts. Regarding civil work, the firm at which I did my articles handled a lot of civil cases, and I lectured civil procedure at the University of the Transkei. Moreover, there is a great deal of overlap between tax law and other areas. The main differences are in terminology.

JP Mlambo: Your judgements have covered a wide range of areas in tax law. Do you regard yourself as eminently appointable?

Mali: Yes.

Moseneke: in Paragraph 4.1 of your papers you make a disclosure and comment that you expect to have more information for the Commission. Do you have any more detail for us?

Mali: It is Case A7 of 1998 of the Mthatha Magistrate's Court, I received it this morning. I couldn't get a charge sheet.

Moseneke: Was this disclosure made to the Law Society at the time?

Mali: Yes.

Moseneke: You were not convicted?

Mali: No.

Moseneke: And the matter was withdrawn in August 2000?

Mali: Yes.

Senior Counsel Advocate Michael Hellens: Ms Mali, have you read the comments of the Johannesburg Bar?

Mali: Yes.

Hellens: In paragraph 4.6, it says that "the judgements written by the applicant during her time as an acting Judge reflect an ability to produce a judgement reflecting facts and/or arguments presented . . . but she has not developed the skill of recording her judicial reasoning or the process of analysis. The result of each matter appears to follow a record of facts and reference to previous cases, but does not involve the candidate engaging in the necessary analytical process in reaching her conclusion." Can you comment on this criticism?

Mali: I looked at the judgement that forms the basis of this criticism, and I gave reasons in

paragraph 30. But I leave the matter in the hands of the commission. Perhaps there is some truth in their criticism, but I do give reasons in my judgements. It might be that I do not formulate my reasons in the expected way.

Hellens: Can you explain what you understand by the concept of judicial accountability?

Mali: As a Judge, one's judgements are the substance of accountability. One accounts to the political parties, to the public, to academia, through one's judgements.

Mr CP Fourie: Can you give some detail on your frequent career changes?

Mali: I sought to start a tax law firm after leaving SARS, but found it difficult to attract clients, so I joined Langa Attorneys, who were in the process of merging with Rooth Wessels. The merger fell through but I had been working with Rooth Wessels anyway, so I stayed on for a year, after which our values began to diverge. I decided to brave it on my own again, and at the same time was offered work as a lecture at the University of South Africa (UNISA).

Mr Fourie: Paragraph 9.2 of the GCB comments refers to two reserved judgements. Have those judgements now been delivered?

Mali: Yes, they were both delivered in August.

Senior Council Advocate Lindiwe Nkosi-Thomas: Congratulations of having chosen to walk the road less travelled, in specialising in tax.

Mr PB Mabunda: Can you confirm that in your view the comments of the Johannesburg Bar, brought up by SC Hellens, are inaccurate?

Mali: Yes

Moseneke: Do you have any final comments?

Mali: I will add value to the Tax Court and the High Court if I am appointed. Besides this, as a black African woman, my appointment will further the goals of transformation.