

**CANDIDATE: JUDGE D PILLAY**

**COURT FOR WHICH CANDIDATE APPLIES:**

**CONSTITUTIONAL COURT**

**1. The candidate's appropriate qualifications**

1.1. The candidate holds the following degrees:

1.1.1. B.Proc (UNISA) (1982); and

1.1.2. LLM (Labour) (UND) (1993).

1.2. The candidate also has a certificate in Constitutional Law (UND) (1994).

1.3. The candidate is appropriately qualified.

**2. Whether the candidate is a fit and proper person**

2.1. The candidate has been actively involved in the legal field since 1979 (when she served her articles). The candidate practised as an attorney from 1983, including as a partner of a legal firm, until 2000, when she was appointed to the Labour Court. After ten years as a Labour Court Judge, in July 2010 the candidate was appointed as a Judge of the High Court, after two acting appointments in 2003 and 2005.

2.2. There is no reason to doubt that the candidate is a fit and proper person.

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**3. Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa**

- 3.1. The candidate is a black woman.
- 3.2. Of the ten permanent judges of the Constitutional Court at present, five are black men, three are white men, and two are black women. As is apparent, there is a significant gender imbalance on the Court. It is also notable that the Constitutional Court has never had more than three permanently-appointed women at any given time.
- 3.3. Women have historically been under-represented in senior judicial office and the elevation of a female candidate would be an important contribution to the gender transformation of the judiciary.
- 3.4. Of particular relevance, the candidate is a black woman, of Indian descent, a group which is particularly poorly represented on the bench.

**4. The candidate's knowledge of the law, including constitutional law**

- 4.1. It is undoubted from the candidate's application and the judgments that we have considered that the candidate strives to apply the constitution wherever she can in her judgments, such that the Constitution is imported into most of her judgments, including as a court of first instance.

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- 4.2. The nomination by the Centre for Applied Legal Studies recognises that the candidate has not acted in the Constitutional Court but that this should not constitute a hindrance to her appointment to the Constitutional Court. Notably, the candidate was a Judge of the Labour Court for over ten years.
- 4.3. She states in her application that she has issued more than one thousand judgments (which overwhelmingly appear to be labour related) including retrenchment, closure of businesses, strikes, lock-outs, discrimination, affirmative action, equality, non-appointment, HIV/Aids testing, review of labour arbitration awards, international empowerment contracts, whistle-blowing, promotion of access to information and justice, electronic transaction law, constitutional law and procedural matters.
- 4.4. The candidate points out that more than one hundred and twenty of her labour law judgments have been published or reported in the law reports, journals and the media.
- 4.5. The candidate is well published and has written more than 40 articles and delivered speeches discussing important topics such as the Constitution and the judiciary, South African democracy and the Constitution, the plight of women in the workplace and substantive determination of affirmative action disputes. It may, however, be noted that none of the published material has been cited in judicial decisions despite the relatively prolific output.
- 4.6. The candidate's extensive experience in labour law will stand

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her in good stead in the Constitutional Court.

4.7. Although it is undoubted that the candidate has extensive experience in labour law and constitutional law, there does appear to be somewhat of a paucity of reported judgments in other fields, particularly in commercial law, as appears from the table below of the judgments that have been reviewed.

4.8. Of 48 non-labour judgments that were reviewed, the candidate wrote judgments in the following fields:

<b>Field of Law</b>	<b>Cases</b>
Constitutional Law	3
Criminal Law	5
Contract Law	4
Law of Delict	1
Property Law	1
Family Law	2
Law of Succession	1
Insolvency Law / Business Rescue	3
Civil Procedure	8
Criminal Procedure	5

4.9. Although three of the judgments have been classified as

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constitutional, the application of the Constitution and of constitutional values features in most of the judgments.

**5. The candidate's commitment to the values of the Constitution**

5.1. The candidate remarks that her most important contribution to the law and the pursuit of justice is the recognition the candidate received as a human rights defendant from Amnesty International SA (Durban Group). This is clearly significant.

5.2. The most notable feature of the candidate's application, her nominations, her judgments and her academic writings, is her commitment to the values of the Constitution.

5.3. The candidate recognises that the Constitution is transformative and is intended for use as a tool to terminate inequality and injustices. The candidate describes the Constitution as not libertarian but a transformative Constitution that needs to engage with concepts of power and community, including eradicating socio-economic inequality. This is evident in most of the candidate's judgments that were reviewed.

5.4. Particularly illuminating is the following extract from the candidate's judgment in *Venter v Khan and Others* [2014] ZAKZDHC 48 (3 November 2014):

*“Some judgments acknowledge that Constitution is not libertarian but ‘promotes an entirely different vision of our society’. A transformative Constitution needs to engage with*

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*concepts of power and community. With the Constitution entrenching third generation rights such as access to housing and the right to education, and the CC having to give effect to them if it is to play a genuinely transformative role, it is hard to describe our Constitution as anything but inclining towards social democratic”.*

- 5.5. The candidate makes every effort to make use of the Constitution as a transformative tool to address the situation that presents before her in court and to rectify what the candidate perceives to be any inequality.
- 5.6. The candidate applies the Constitution even in circumstances where the parties before her did not raise constitutional issues or appreciate the role the Constitution had to play in the determination of the dispute. For example, in the recent but as yet unreported case of *Mundalal v Director of Public Prosecutions KZN and Others*, the candidate, writing for the Full Court, applied the Constitution when determining an application for the review of the administrative decisions of the Director of Public Prosecutions and the Clerk of the Criminal Court to issue a certificate of *nolle prosequi*, the issue of a criminal summons and the ruling of a regional Magistrate. The candidate identified as a “*vital constitutional issue*”, which the candidate noted regrettably neither party had raised, namely that a decision to deny a private prosecutor the right to prosecute should be taken cautiously and not least because it implicated

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the right to access to the court under section 34 of the Constitution. This led the candidate to hold that, provided the requirements for a private prosecution under the Criminal Procedure Act were met and the right to prosecute survived a limitation assessment under section 36 of the Constitution, a private prosecution should be allowed to proceed.

- 5.7. Although identifying this constitutional imperative, the candidate nonetheless granted the application for review, bringing an end to the private prosecution.
- 5.8. Of importance is the candidate's human rights practice as an attorney in the 1980s and 1990s, which generated judgments which dealt with critical topics of the apartheid era such as emergency detention laws, treason, cross-border abductions by the security police and the application of *audi alteram partem* in the context of refusal of bail and in the context of the treatment of public servants prior to retrenchments.
- 5.9. The candidate advocated for detainees, emergency detainees and activists (including missing and murdered activists) at a time when her own life appeared to be under threat, which indicates a determination and fearless attitude towards upholding and protecting human rights. The candidate describes that she managed a practice that served more than 250 detainees for the most part of the various states of emergency.

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**6. Whether any judgments have been overturned on appeal**

- 6.1. The candidate in her application estimates that 130 of what would appear to be her labour law judgments have been appealed, twelve of which have been overturned.
- 6.2. The candidate also states in her application that forty appeals have been noted against her judgments. It is unclear which judgments the candidate is referring to in this regard, but it would appear to be the judgments handed down as a Judge of the High Court.
- 6.3. What does require some consideration is the candidate's judgment whilst sitting in the Labour Court in the matter of the *MEC Department of Education KwaZulu-Natal v Khumalo and Another* 2011 (1) BCLR 94 (LC), which was first appealed to the Labour Appeal Court and then to the Constitutional Court.
- 6.4. The candidate discloses that this judgment was overturned on appeal by the Constitutional Court, but does not mention the more recent judgment of the Labour Appeal Court, which was very critical of the candidate's judgment. Some elaboration is appropriate:
- 6.5. The candidate's judgment in the Labour Court:
- 6.5.1. The candidate had at the instance of the MEC, consequent upon an application launched by the MEC after a long delay, set aside the appointment of two employees on the

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basis that their appointment was unlawful.

- 6.5.2. The candidate was not impressed with the lack of accountability of the officials who participated in the decision to promote Khumalo (K) and who, even after a grievance was filed, failed to reverse the decision and take responsibility, instead opting for the device of the protected promotion of Ritchie (R).
- 6.5.3. The candidate harshly chastised the manner in which the MEC handled the matter by not utilising her power to call on all officials to disclose which officials were involved – opting instead to mandate a task team which had none of the MEC’s powers.
- 6.5.4. The candidate observed of the MEC’s explanation that it was “*at best ... an excuse for managerial indecisiveness and sloppiness and at worst another cover for official misconduct*”.
- 6.5.5. The candidate branded the official conduct unethical, arbitrary, supported by no reasons whatsoever and not rationally connected to the information before the officials.
- 6.5.6. The candidate also found K and R to have acted dishonestly.
- 6.5.7. The candidate observed:

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*“The tendency to present the public service as a bureaucracy of unidentifiable nameless, faceless functionaries casts a cloak of secrecy that is the very antithesis of an open, ethical, democratic, accountable and responsive public service ... Wrongdoers within the public service can be rooted out, provided there is a will to do so.”*

6.5.8. The court finally stated that in intervening in the matter as invited by the MEC, the court could not turn a blind eye to the shocking lack of good governance in the department and the promotions were declared invalid and set aside.

6.6. The Constitutional Court judgment (2014 (5) SA 579 (CC)):

6.6.1. The Constitutional Court disagreed with the candidate’s judgment in several respects. It was, however, not particularly critical of the candidate. It found that the candidate had, notwithstanding the nature of the application and the strengths of the merits of the MEC’s application, erred in overlooking (or perhaps more accurately underestimating) the delay by the MEC in challenging her own department’s decisions to promote certain employees.

6.6.2. The Constitutional Court found that whilst the court a quo (the candidate) *“was correct to be cautious in permitting the delay to non-suit the MEC, its simple reference to promoting public accountability and the balance of*

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*convenience, as a basis on which to condone, is an inadequate consideration of the depths of difficulties faced by a court when confronted with a review in the labour context, following the passage of an extensive or unexplained delay of this nature. While the court accurately acknowledged its ability to ameliorate prejudice to Mr Khumalo in the remedy, it did not adequately consider the fact that the MEC gave no explanation for the delay or the extent to which the delay constrained an accurate review. In the result, the court misdirected itself in overlooking the delay and the grounds for this court's interference with its exercise of discretion are established. The delay should non-suit the MEC in relation to her application for the review of Mr Khumalo's appointment.”*

- 6.7. The Labour Appeal Court judgment ([2012] 12 BLLR 123 (LAC) and (2013) 34 ILJ 296 (LAC) dated 29 August 2012):
  - 6.7.1. Considerably more critical of the candidate was the judgment of the Labour Appeal Court, although it upheld the candidate's judgment.
  - 6.7.2. The candidate did not list this judgment in paragraph 16.4 of her application, although it is the most critical of the appeal judgments that was found.
  - 6.7.3. The LAC considered the candidate's judgment to be *'replete with incorrect factual statements which to a*

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*certain extent formed the basis of some of its findings’.*

6.7.4. The candidate’s finding that the appointments were unlawful was found to be correct but the candidate was found to be wrong in the following respects:

6.7.4.1. in approaching the matter on the basis that the court did not have a discretion to refuse the setting aside of the impugned decisions – by adopting the view that once it was found that the impugned decisions were unlawful they had to be set aside, and

6.7.4.2. the candidate did not appear to have given a proper consideration to the legal effect of the MEC’s delay in bringing the review application.

6.7.5. The LAC found that the approach of the candidate was clearly wrong and contrary to the line of cases in which the courts had reiterated that in reviewing and considering whether it would be just and equitable to set aside an administrative decision, courts had a discretion and the mere fact that the decision was based on ignorance, mistake or fraud did not necessarily mean that it had to be set aside (contrary to the candidate’s finding).

6.7.6. This criticism is particularly apposite as it may raise some questions as to the candidate’s understanding or application of relatively settled constitutional and administrative law

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principles. The candidate's judgment is dated 20 May 2010. By then the judgment in *Chairperson, Standing Tender Committee v JFE Sapela Electronics* 2008 (2) SA 638 (SCA) was already well-known and the judgment in *Oudekraal Estates v City of Cape Town* 2010 (1) SA 333 (SCA) would just have been reported in the main law reports.

6.7.7. The appellants' counsel emphasised in argument before the LAC that "*the problem with the approach of the Court a quo is that it fixated on what it saw as the illegality of this administrative action and gave no proper consideration to the interests of finality, pragmatism and practicality*", a criticism with which the LAC appeared to have agreed.

6.7.8. The LAC also felt it necessary to comment on the candidate's comments related to the MEC and the appellants K and R, no doubt due to the harshness of these comments:

6.7.8.1. The LAC stated that it was not correct that the MEC had violated "*every principle of legality and every tenet of ethical, accountable and transparent public administration...in the promotion of K and R*" – as there was no evidence suggesting that when K and R were promoted the MEC was aware that their promotions were irregular. The evidence on the record

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suggested that as soon as the MEC became aware of the allegations of irregularities in promotions she took necessary steps to have the allegations investigated. When she received the report that irregularities were evident she approached the court for appropriate relief.

6.7.8.2. The LAC also found that the candidate's finding that the MEC's explanation "*is an excuse for managerial indecisiveness and sloppiness; at worst, another cover for official misconduct*" was not justified (although it found that there was no reason to interfere in the exercise of the candidate's discretion to refuse the MEC costs).

6.7.8.3. The LAC also found that there was no evidence that the appellants K & R were guilty of dishonourable conduct, and accordingly there would have been no basis to deprive them of their costs in the event that they had been successful. The Constitutional Court later shared this criticism of the candidate's assessment.

6.7.9. It may be that when the candidate is particularly incensed by unlawful conduct, her indignation or fervour may cloud the issues at the cost of analytical rigour and legal principle.

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- 6.8. No similar degree of criticism of the candidate's treatment could be found in any other appeal judgment that was reviewed.
- 6.9. For example, in *Gordon v Department of Health, KwaZulu-Natal* 2008 (6) SA 522 (SCA), the SCA found that the candidate had erred in coming to the conclusion that a black male could be promoted instead of the appellant, a white male, on the basis of race only but without any proper affirmative action policy being in place, the SCA finding that such an ad hoc appointment was arbitrary.
- 6.10. In *Republican Press v CEPPWAWU* [2007] SCA 121 [RSA], the Supreme Court of Appeal disagreed with the candidate that it was appropriate to reinstate workers some six years after they had been dismissed, finding that "*In my view it was entirely inappropriate for such an order to be granted. If the learned judge exercised any discretion in that regard at all (whether she did so is not apparent from the judgment) in my view the order that she made is the clearest indication that she misdirected herself in doing so and the order cannot stand*". The SCA did however note that the candidate had dealt with the matter with commendable decisiveness and expedition once seized of it and that she had delivered "*a considered and reasoned judgment*".

**7. The extent and breadth of the candidate's professional experience**

- 7.1. The candidate has extensive professional experience, first as an

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attorney for some seventeen years, including as a partner from 1987 to July 2000, then as a Judge of the Labour Court for ten years from 2000 to 2010 and then as a Judge of the High Court for five years since July 2010.

- 7.2. The candidate has served as adjunct professor, has been a visiting academic at various international universities and has been a research and visiting fellow. She has held various legal positions such as assessor, the chair of the essential services committee, and appointments to various bargaining council bodies and provincial task teams.
- 7.3. The candidate has further participated in various legal and other organisations, which demonstrates an active and keen interest in various spheres of South African society.
- 7.4. The candidate has further served as a part time senior Commissioner of the CCMA and as arbitrator at the IMSSA and AFSA.
- 7.5. The candidate has been involved in the development of key pieces of national legislation affecting the public service, labour and industrial relations at large.
- 7.6. The candidate has an extensive academic career and whilst sitting as a Judge of the High Court and Labour Court she was not idle. The candidate constantly lectured and presented at conferences which indicates a keen interest in furthering the

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educational and constitutional imperatives of South Africa as well as a desire actively to participate in legal development.

- 7.7. It has been noted that none of the candidate's writings appears to have been cited judicially, which does warrant mention.

**8. The candidate's linguistic and communication skills**

- 8.1. The candidate's judgments are in English and she is clearly fluent and proficient in that language.

- 8.2. Her proficiency in other languages is unknown.

- 8.3. The candidate states in her application that she has participated in two legal writing programmes by the Seattle University School of Law and she has published various articles on clear writing.

- 8.4. The candidate also describes in her application her interests in legal drafting developed by various engagements in the drafting of legislation and in legal training, including drafting skills.

**9. The candidate's ability to produce judgments promptly**

- 9.1. The majority of judgments that were reviewed were handed down within two months, several within a week. The longest period found in the reviewed judgments was some three months. Given the number of judgments written by the candidate, this is commendable.

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- 9.2. As already stated, the Supreme Court of Appeal in the *Republican Press* judgment commended the candidate for the expedition with which she dealt with the matter and in delivering a considered and reasoned judgment.
- 9.3. The candidate's clear commitment to delivering reasoned judgments utilising the transformative power of the Constitution does not prevent her from delivering her judgments promptly.

**10. The candidate's fairness and impartiality**

- 10.1. The candidate displays a strict regard for procedural time limits. For example in *Akoo and Others v Master of the High Court and Others* (5612/11) [2012] ZAKZPHC 45 the candidate did not take kindly to the parties failing to adhere to procedural time limits.
- 10.2. The candidate further demonstrates in various judgments that she does not hesitate to utilise such discretion as she may have to achieve a sense of justice, including regarding costs, albeit not always correctly. See, for example, the discussion above in relation to the candidate's judgment in *MEC Department of Education v Khumalo*.
- 10.3. It would appear that the candidate is capable of being stern in sentencing in criminal matters as was evident in *S v Curren* (AR 499/10) [2012] ZAKZPHC 46 where the Judge dismissed an appeal against the conviction and a sentence of life

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imprisonment in a matter where the only two witnesses to the rape were two young children. The judgment was very well written and it seemed to deliver justice based on an analysis of all evidence by the various parties.

- 10.4. The candidate however does appear inclined to set aside convictions and sentences where the State had not proved the guilt of the accused beyond reasonable doubt, such as in *S v Shaw* [2011] ZAKZPHC 21; AR 342.
- 10.5. A reading of the judgments suggests that the candidate is generally fair and impartial. In the reviewed judgments the candidate appears to display a tendency of trying to come to the aid of the powerless, particularly through the application of the Constitution.
- 10.6. As noted above, the candidate's indignation at what she perceives as official failures or injustices may at times cloud her analysis or be at the cost of analytical rigour.
- 10.7. It may be fair to say that there are indications that the candidate's desire to achieve just outcomes and to be fair at times leads her to stray from the application of principle, which imports a degree of unpredictability.
- 10.8. For example, the candidate's recent judgment of *Resource Washing (Pty) Limited v Zululand Coal Reclaimers (10862/2014 [2015] ZAKZPHC 21 (20 March 2015)* bears consideration:

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- 10.8.1. The candidate was faced with an application relating to the termination of business rescue proceedings. The applicant creditor was seeking a winding up and the relevant respondents sought business rescue to continue.
- 10.8.2. In the former event, liquidators would be in control of the company. In the latter event, the business rescue practitioner would be control. In neither event would the company's directors be in control of a company that it was common cause was unable to pay its debts and had not actively traded for months.
- 10.8.3. The candidate set aside the resolution placing the respondent company under business rescue but did not grant the liquidation order, instead postponing the application for provisional liquidation sine die so as to enable the company to address the applicant creditor's indebtedness by what the candidate believed to be the appropriate commercial solution, stating that the *“recapitalisation, the sale of [the respondent company] or its business in the ordinary course, hold better prospects of satisfying the claims of creditors than liquidation”*.
- 10.8.4. This effectively returned control of the respondent company to its directors and erstwhile management in circumstances where no litigant advanced this outcome, and it was common cause that the respondent company

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could not pay the applicant creditor. This was a remarkable outcome in such proceedings. The candidate did not raise this potential outcome with the litigants during the hearing.

- 10.8.5. The candidate's reasoning is difficult to follow.
- 10.8.6. The candidate found that the company was not financially distressed but could be rescued. The first finding was clearly incorrect as it was against the common cause fact that the company was unable to pay its creditors. The second finding militated against a discontinuation of the business rescue proceedings.
- 10.8.7. It seems fair to say that the candidate's desire to achieve what she regarded as the sensible commercial outcome appears to have substituted for legal analysis and application of principle in adjudicating the dispute.

**11. The candidate's independent mindedness**

- 11.1. There can be no doubt that the candidate is independent minded.
- 11.2. A prime example of the candidate's independent mindedness is her dissenting judgment in the Full Court decision of *S v Mabaso* 2014 (1) SACR 299 (KZP) where the candidate imposed a heavier sentence than the majority and also disagreed on the procedural implementation of the minimum sentence legislation regarding notice to an accused.

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11.3. The independent mindedness of the candidate is also evident from her criticism of the MEC in the *Khumalo* decision considered above.

11.4. The candidate does not hesitate to expound upon legal policy in her judgments. In *D & E Trading (Pty) Ltd v Hilton Village Centre CC and Others* (1342/13) (2013) ZAKZPHC 12 the candidate discussed the impact that restraints of trade have on the constitutionally protected rights and values of freedom of trade, occupation and profession (s 22 of Constitution). The candidate considered the horizontal application of section 22 in the following terms:

*“... the SCA and the Constitutional Court may yet pronounce on the horizontal application of section 22 specifically. If this is still an open question then in my view whether a provision in the Bill of Rights applies horizontally as a matter of interpretation, depending on the circumstances of each case. To interpret section 22 to be of such a nature as to be inapplicable to natural and juristic persons, would amount to declaring private contracts to be no-go zones for constitutional scrutiny. Post-apartheid, very little of public and private life escapes constitutional scrutiny,”*

11.5. The candidate does not shy away from highlighting shortcomings in the dispensing of justice. In *S v Hogg*

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(R440/2012) (2012) ZAKZPHC 39 in a review of a Magistrates' Court decision, the candidate found that the magistrate had made fundamental omissions resulting in the proceedings not being in accordance with justice. She observed that this was not the only instance relating to the particular magistrate, and held as part of the order that the Magistrates' Commission should scrutinise the work of the magistrate under review.

**12. The candidate's ability to conduct court proceedings**

- 12.1. The candidate appears inclined to visit upon the parties her view as to how the litigation should have unfolded by way of what the candidate believes to be an appropriate costs order.
- 12.2. The candidate often rebukes the parties and their legal representatives for what the candidate perceives to be a waste of the court's time or for failing to deal with matters efficiently. This may have unintended consequences, and makes for unpredictable results.
- 12.3. The criticism by the LAC and CC of the candidate's findings of dishonesty and the consequences for cost in *MEC v Khumalo*, considered above, is an example.

**13. The candidate's administrative ability**

- 13.1. The candidate was a partner of a legal practice for thirteen years and has been a Judge for fifteen years.

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13.2. The candidate has also held secretarial and various administrative posts in other organisations, also demonstrative of her administrative ability.

**14. The candidate's reputation for integrity and ethical behaviour**

14.1. There is no reason to doubt the candidate's reputation for integrity and ethical behaviour.

14.2. No adverse comments were received.

**15. The candidate's judicial temperament**

15.1. As appears from *Khumalo and Another v MEC Department of Education KwaZulu-Natal*, the candidate tends at times to display intemperate indignation. It is in fairness likely that this is probably indicative of the candidate's impatience with official dereliction of duty and her antipathy to injustice.

**16. The candidate's commitment to human rights, and experience with regard to the values and needs of the community**

16.1. As set out above, and as appears in the candidate's comprehensive application, there can be no doubt about the candidate's excellent credentials in this regard.

**17. The candidate's potential**

17.1. The candidate has potential as a valuable addition to the Constitutional Court.

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- 17.2. The candidate has not yet had an acting appointment in the Constitutional Court but this should not be a hindrance.
- 17.3. The candidate appears to have dedicated her professional life, if not her entire life, to the pursuit of constitutional values in the field of law.
18. **The message that the candidate's appointment would send to the community at large**
  - 18.1. The candidate's appointment would favourably address the racial and gender composition of the judiciary.
  - 18.2. Given the candidate's commitment her whole life to the pursuit of constitutional values in the field of law, the appointment of the candidate to the Constitutional Court will send out a positive message to the community at large that those who strive to achieve these goals can be appointed to the apex court.

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## ANNEXURE: LIST OF JUDGMENTS CONSIDERED

### Reported decisions

*Coates Brothers Ltd v Shanker and Others* (2003) 12 BLLR 1189 (LAC)  
Pillay J

On appeal: *Coates Brothers Ltd v Shanker and Others* (2003) 24 ILJ 2284  
(LAC) Willis JA

On appeal: *Maada v The Member of the Executive Council of the Northern  
Province for Finance and Expenditure and Another* (2003) 24 ILJ  
937 (LAC) Zondo JP

On appeal: *Goodyear SA (Pty) Ltd v CCMA and Others* (2004) 1 BLLR 7  
(LAC) Willis JA

On appeal: *Boxer Superstores (Pty) Ltd v Zuma and Others* (2008) 29 ILJ  
2680 (LAC) DA 6/07 Davis JA

*MEC Department of Education KwaZulu-Natal v Khumalo and Another*  
2011 (1) BCLR 94 (LC) (6 July 2010)

On appeal to LAC: *Khumalo and Another v MEC Department of  
Education KwaZulu-Natal* 29 August 2012 DA 3/2011

On appeal to CC: *Khumalo and Another v MEC Department of Education  
KwaZulu-Natal* 2014 (5) SA 579 (CC)

*De Koker v Minister of Safety and Security* 2010 (2) SACR 595 (KZD)

*Mudaly v Gwala and Others* 2011 (1) SACR 302 (KZD)

*Standard Bank of South Africa v Dlamini* 2013 (1) SA 219 (KZD)

On appeal: *Avonmore Supermarket CC v Venter* 2014 (5) SA 399 (SCA)

*Makwickana v eThekwini Municipality and Others* 2015 (3) SA 165  
(KZD)

### Unreported decisions

*Resource Washing (Pty) Limited v Zululand Coal Reclaimers (10862/2014  
[2015] ZAKZPHC 21 (20 March 2015)*

*Naidoo and Another v Chetty and Others (6546/06) [2010] ZAKZPHC  
104 (3 December 2010)*

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- S v Shaw* [2011] ZAKZPHC 32; AR 342/10 (1 August 2011)
- Akoo and Others v Master of the High Court and Others* (5612/11) (2012) ZAKZPHC 45 (31 July 2012) / (2013) JOL 30833 (KZP)
- S v Hogg* (R440/2012) (2012) ZAKZPHC 39 (26 June 2012)
- Wannenburg v Madamu Technologies (Pty) Ltd* (AR87/2012) [2012] ZAKZPHC 35 (13 June 2012)
- Helen Roper Consulting v Toyota Tshusho Africa* (1171/2010) [2012] ZAKZPHC 37 (21 June 2012)
- Green v Amalgamated Brokers CC* (7806/2011) [2012] ZAKZPHC 44 (26 June 2012)
- S v Currin* (AR 499/10) [2012] ZAKZPHC 46 (1 August 2012)
- D & E Trading (Pty) Ltd V Hilton Village Centre CC and Others* (1342/13) [2013] ZAKZPHC 12 (19 March 2013)
- S v Moyo* (CC 98/12) [2013] ZAKZDHC 77 (8 August 2013)
- On appeal: *Hlela v SA Taxi Securitisation* (515/2013) (2014) ZASCA 112
- Sants Private Higher Education Institution v MEC for Department of Education KZN and Others* (5374/2014) [2014] ZAKZPHC 43 (18 June 2014)
- Venter v Khan and Others* (14185/2011) [2014] ZAKZDHC 48 (3 November 2014)
- Gounden and Another v Master of the High Court and Others* (3698/2014) [2015] ZAKZDHC 6 (18 February 2015)
- Edcon Consolidated Stores Ltd v Pillemer* NO D523/04
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*CANDIDATE: JUDGE MM MAYA*