

JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/1009/22

In the matter between:

Mr V H Rabie

Complainant

and

Judge Janse Van Nieuwenhuizen

Respondent

Date: 14 August 2024

Decision: The appeal is dismissed.

RULING

**THE JUDICIAL CONDUCT COMMITTEE (JAFTA J, SHONGWE JA,
SALDULKER JA and MABINDLA-BOQWANA JA)**

[1] This is an appeal in terms of section 15(5) or of the Judicial Service Commission Act 9 of 1994 as amended (the Act). The complainant, Mr VH Rabie, filed a complaint against Judge Janse van Nieuwenhuizen (the respondent/the Judge) in June 2022. On 22 February 2023, Judge President

Mlambo (JP), having been designated by the Acting Chairperson of the Judicial Conduct Committee (the Committee) in terms of section 14(2) of the Act as head of the Court in which the Judge was based, dismissed the complaint on the ground that it was frivolous and without merit.

[2] The Acting Chairperson informed the complainant of the dismissal of his complaint in terms of section 15(2)(c) and (15) (d) on 22 February 2023, that the complaint is solely related to the merits of a judgment and that it is lacking in substance.

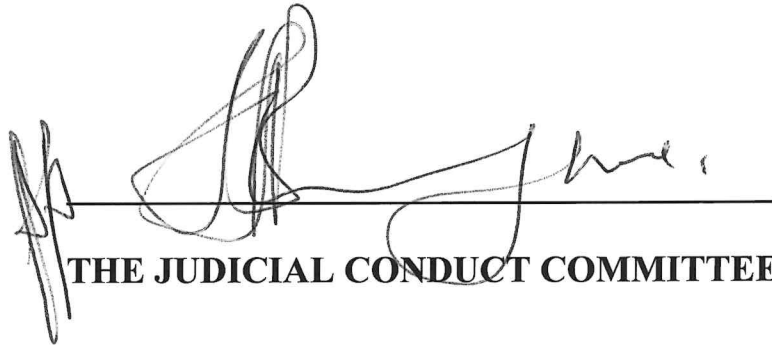
[3] As a ground of appeal the complainant states that he is not at all focussing on the merits of the judgment of the respondent but against the conduct of the respondent and how the proceedings were conducted on 4 June 2021 ‘(as per her judgment of 3 August 2021) and on 1 October 2021 (as per her judgment of 2 November 2021)’. To me, this ground is contradictory and does not make sense.

[4] The complainant goes further to say that ‘[t]here is no place in the judgment where the Judge had to make a decision and weigh up to consider the probabilities of the versions of a Respondent versus the version of the Applicant. There was thus no opinion that needed to be formulated and no decision that had to be made, and nothing was open to any interpretation. Everything was clear cut’.

[5] It is evident from the passage quoted above that the respondent is attacking the merits of the judgment. The complainant goes on and on repeating the attack on the judgment with nothing else new as a ground of appeal. The complainant should have lodged an appeal against the judgment to a higher court based on the grounds stated above. He was ill-advised to lodge a complaint against the Judge.

The Judge responded to the grounds of appeal by stating that she perused the grounds of appeal and she was of the view that the grounds pertained to the findings in her judgment. The Committee agrees.

[6] The dismissal of the complaint was justified. Therefore, this appeal is dismissed.



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THE JUDICIAL CONDUCT COMMITTEE