



JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/1160/23

In the matter between:

MS PHUMLA SIHLALI

COMPLAINANT

and

ACTING JUDGE SAUNDERS

RESPONDENT

Date: 13 November 2024

Decision: The appeal is dismissed.

RULING

**THE JUDICIAL CONDUCT COMMITTEE (JAFTA J, SHONGWE and
SALDULKER JJA)**

[1] This is an appeal in terms of section 15(5) of the Judicial Service Commission Act 9 of 1994 (the Act). The appeal was lodged against the decision of the Acting Chairperson of the Judicial Conduct Committee (JCC) in terms of which the

complaint that was lodged by Ms Phumla Sihlali against Acting Judge Saunders was dismissed. The complaint was dismissed on the grounds that it solely related to the merits of the judgment and did not fall within the parameters of any grounds set out in section 14 (4) of the Act.

[2] The gist of the complaint lodged against Acting Judge Saunders was that the complainant had appeared before the respondent in the Labour Court. Counsel for the complainant informed the respondent that she was not on brief by an attorney and was therefore not permitted to appear on behalf of the complainant. The complainant then applied for a postponement in order to obtain legal representation. The respondent refused the postponement, and dismissed the application. In addition, a further application for condonation where the complainant sought condonation for the late filing of a Statement of Claim which had been referred to the Labour Court some 8 months out of time on the complainant's version, was also dismissed.

[3] Both in the initial complaint and in her grounds of appeal the complainant claimed that Acting Judge Saunders was *inter alia*, incompetent, hostile, unreasonable and that she was racially biased against her. In her response to the complaint Acting Judge Saunders denied that she had committed any misconduct in the manner claimed by the complainant and stated that she had acted objectively and impartially at all times. Acting Judge Saunders explained that a postponement application would have served no purpose as the prospects of success on the merits of the matter was poor and the complainant had not made out a case for an application for condonation, as the delay was poorly explained.

[4] As stated previously, the Acting Chairperson dismissed the complaint and the complainant seeks to appeal against this decision. Section 15(5) of the Act requires

the complainant to clearly identify the grounds she relies on to show that the Acting Chairperson was incorrect. A perusal of the complaint clearly shows that the complaint against Acting Judge Saunders is not founded on any of the bases listed in section 14(4) of the Act. Consequently, the Acting Chairperson correctly dismissed the complaint in terms of section 15(2). There is in our view no substance to the complaint. This matter has also not been finalized. Additionally, there is another reason why this appeal cannot succeed. In *Moses Makatu v Acting Judge Herman Niewoudt* (reference no JSC/696/21), this Committee has ruled that it has no authority to investigate complaints against former acting judges who have returned to their employments after acting as judges in the high court.

[5] Accordingly, the appeal is dismissed.



THE JUDICIAL CONDUCT COMMITTEE