



## **JUDICIAL CONDUCT COMMITTEE**

Ref no: JSC/73/07/2024

In the matter between:

**THABANG MOTJAMELA**

**COMPLAINANT**

and

**JUDGE RABKIN-NAICKER**

**RESPONDENT**

**Date:** 24 July 2025

**Decision:** The appeal is dismissed.

---

### **RULING**

---

**THE JUDICIAL CONDUCT COMMITTEE (Jafta J, Saldulker JA and Mabindla-Boqwana JP)**

[1] The complainant, Mr Thabang Motjamela lodged a complaint against the respondent, Judge H Rabkin-Naicker, with the Chairperson of the Judicial Conduct Committee (the JCC), in terms of section 14(1) of the Judicial Service Commission Act 9 of 1994 (the JSC Act).

[2] The complaint had to do with two cases which the respondent dismissed against the complainant while acting as a judge at the Labour Court. These matters were under case numbers C388/21 and C185/23. The complainant alleges that the respondent dismissed case number C 388/21 on grounds that she had no jurisdiction to entertain a matter of unfair discrimination without the CCMA certificate, showing that the matter was unresolved. The complainant submitted that section 157(1) of the Labour Relations Act (LRA) provides for the Labour Court's exclusive jurisdiction over any matter that the LRA prescribes should be determined by it. He further referred to case law to underline this position. As regards case number C185/23, the complainant's protest was that the respondent should not have found the matter to have been *res judicata* as she did.

[3] The Acting Chairperson of the JCC dismissed the complaint in terms of section 15(2)(c) of the JSC Act. This section provides that a complaint must be dismissed if 'it is solely related to the merits of a judgment or order.'

[4] The complainant lodged an appeal against the Acting Chairperson's decision in which he raised a long list of grounds, some of which were never part of his complaint. In a nutshell, the complainant alleges that the respondent denied him an opportunity to deal with the merits of the case by dismissing the cases on the grounds she did. In doing so, so it is alleged, the respondent discriminated against the

complainant as a lay black person; this violated his constitutional rights of being heard in a court; and her conduct was unfair and unconstitutional.

[5] Although the complainant seeks to impermissibly expand his complaint on appeal, his displeasure is demonstrably solely related to the outcome of his cases in the Labour Court. It was correctly dismissed by the Acting Chairperson. The detailed grounds seeking to impugn the respondent's conduct or competence on constitutional grounds, seem an attempt (on appeal) to locate the complaint within the contemplation of the JSC Act. These, in any event, may be dismissed as frivolous in terms of section 15(2)(d) of the JSC Act.

[6] The appeal is accordingly dismissed.



---

**THE JUDICIAL CONDUCT COMMITTEE**