



JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/123/01/2025

In the matter between:

JABULANI STEVEN MAYISELA

COMPLAINANT

and

JUDGE COPPIN

RESPONDENT

Date: 21 SEPTEMBER 2026

Decision: The dismissal is set aside and the complaint is referred to the Acting Chairperson for an inquiry in terms of section 17

APPEAL RULING

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

[1] The complainant, Mr Jabulani Steven Mayisela, lodged a complaint with the Chairperson of the Judicial Conduct Committee (the Committee) against the respondents, in terms of section 14(1)¹ of the Judicial Service Commission Act 9 of 1994 (the Act). The complaint related to the matter that served before Olivier AJ in the Labour Court and later in the Labour Appeal Court before Coppin JA (Davis JA and Kubushi AJA concurring).

[2] Amalungelo Workers Union, on behalf of the complainant and 29 others (the employees), referred a dispute to the Commission for Conciliation Mediation and Arbitration (CCMA) relying on section 198B of the Labour Relations Act 66 of 1995 (the LRA), contending that the fixed term employment of the employees with Unilever had been converted into permanent and indefinite employment and sought a declaratory order to that effect.

[3] The arbitrator, acting under the auspices of the CCMA, rendered an arbitration award in which he found that Unilever was in breach of section 198B(3) of the LRA; that the employees in the matter were deemed to be employed by Unilever on an indefinite basis and will consider permanent employees of Unilever since April 2017. The arbitrator further ordered Unilever to assist the relevant employees concerned to participate in its medical aid, pension, education, and home loan schemes and that Unilever pay them with effect from April 2017, remuneration at the rate that was not “less favourable” than the rates paid to Unilever’s permanent employees who performed the same or similar work as the relevant employees concerned.

¹ Section 14(1) of the Act provides:

‘14 Lodging of complaints

- (1) Any person may lodge a complaint about a judge with the Chairperson of the Committee: Provided that the Chairperson may refer the complaint to the Deputy Chief Justice to deal with in terms of the provisions of the Act, and the Deputy Chief Justice assumes the role of the chairperson in respect of that complaint’.

[4] The arbitration award was later varied by insertion of a paragraph that ordered Unilever to hold a meeting with the representatives of the employees by no later than 30 September 2018 to quantify the amounts in the original award; and an order directing the employees to approach the Labour Court by way of contempt proceedings if Unilever failed to comply with the newly inserted paragraph above.

[5] The arbitration awards (original and variation) were both reviewed and set aside by the Labour Court (per Olivier AJ) at the behest of Unilever. The Labour Court granted leave to appeal to the Labor Appeal Court. It appears that the parties confined their arguments on appeal to whether the arbitrator had jurisdiction to arbitrate the dispute, as it was referred to the CCMA more than six months after it arose; and whether the arbitrator had the power to award the employees the payments and benefits he awarded, in circumstances where the CCMA referral form on sought a declaratory award that they were permanent employees as envisaged in section 198B read with section 198D of the LRA.

[6] The Labour Appeal Court (per Coppel JA with Davis JA and Kubushi AJA concurring) agreed with the Labour Court that the CCMA lacked jurisdiction in respect of the matter and that was decisive of both the review application and the awards. Thus, it was not necessary to deal with the arbitrator's powers to issue specific payment orders.

[7] The complainant lodged a complaint with the Chairperson of the JCC. In relation to Judge Coppel, the complaint was dismissed by the Acting Chairperson in terms of section 15(2)(c) of the JSC Act on the basis that it is solely related to the merits of the judgment or order. In relation to Judges Davis and Kubushi, and Acting Judge Sibanda, the complaint was dismissed 'in line with the standing

ruling of the JCC that resolved that the JCC lacks competence to entertain complaints against acting judges.’

[8] Although the complaint is difficult to follow, it clearly reflects the complainant’s unhappiness with the judgments of both courts. In relation to the Labour Court, the complaint is that the Labour Court granted [the application for leave to] appeal because it realised that it was a mistake not to consider the merits of the case before it; its ruling was biased, and it is questioned why it disputed the fact that the employees were permanent.

[9] In respect of the LAC, the allegation is that it was wrong in its findings in relation to ‘a representative of the Company’, one Mr White Maepa; the Court was biased because it referred to a contract and ‘retrenchment’ that the Company failed to submit at both the CCMA and the Labour Court.

[10] Section 15(2) of the Act provides:

‘(2) A complaint must be dismissed if it-

- (a) does not fall within the parameters of any of the grounds set out in section 14(4);
- (b) does not comply substantially with the provisions of section 14(3);
- (c) is solely related to the merits of a judgment or order;
- (d) is frivolous or lacking in substance; or
- (e) is hypothetical.’

[11] The complainant was clearly unhappy with the judgments of the respective courts. As observed by Judge Coppin in his response to the appeal, the complainant ‘ascribes all kinds of bias and improper conduct to that outcome’. The grounds of appeal are largely a repetition, although they relate only Judge Coppin, due to the letter sent to the complainant ousting the JCC’s jurisdiction in relation to other judges. To the extent that new grounds are stated in the appeal, they have been improperly raised.

[12] Were it not for the issues dealt with below, the question would have been whether reference to bias thrown in by the complainant in the original complaint meant that the complaint ought to have been dismissed under section 15(2)(d) instead of 15(2)(c).

[13] Ordinarily, where a complainant impugns the judge's conduct alleging bias, the correct provision for the dismissal is section 15(2)(d). Even if section 15(2)(c) was applicable in this case on the basis that the true complaint relates solely to the judgment or order of the judge, there is a further problem with the matter. The complaint was dismissed on grounds of jurisdiction against judges Davis and Kubushi and acting judge Olivier.

[14] The decision may have been correct insofar as Olivier AJ is concerned, however, same cannot be said in respect of judges Davis and Kubushi. Judge Kubushi is the permanent judge of the Gauteng Division of the High Court although she was acting in the Labour Appeal Court, while Judge Davis is a retired judge. The Acting Chairperson accordingly erred by stating that the JCC lacked the competence to act against these two judges.

[15] In the result, the dismissal is set aside, and the complaint is referred to the Acting Chairperson for an inquiry in terms of section 17.



THE JUDICIAL CONDUCT COMMITTEE