

**JUST AND EQUITABLE CONCEPT IN
INDUSTRIAL LAW WITH SPECIAL EMPHASIS ON
THE INDUSTRIAL DISPUTES ACT**

**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN
FULFILLMENT OF THE REQUIREMENT FOR THE DEGREE OF
MASTER OF PHILOSOPHY**

**BY
ARULANANTHAM SARVESWARAN**

UCLIB



516807

**FACULTY OF LAW
MARCH 2002.**



ABSTRACT

Chapter 1 traces the origin of the just and equitable concept and its emergence in industrial law. The meaning of the phrase 'just and equitable' in the context of Industrial Disputes Act of Sri Lanka is also discussed in this chapter.

Chapter 2 deals with the just and equitable concept in contract of employment. This chapter explains that the Labour Courts directly or indirectly apply the just and equitable concept to the facts and circumstances of each case that falls in the twilight area in making an equitable decision on the question whether a contract of service arises, and if it does so, in deciding under what type of employment it comes. Further, this chapter explains how the Labour Courts which are not fettered by the unjust and inequitable terms of the contract of employment, embody the just and equitable concept directly by making just and equitable decisions and indirectly by discouraging the parties from including unjust and inequitable terms in the contracts of employment. This chapter also explains how the powers of the Labour Courts differ from other Courts in the light of the terms of contracts.

In chapter 3, the mechanism for the settlement of industrial disputes and the just and equitable concept is analysed. It explains that the just and equitable concept is expressly embodied in the provisions that deal with the settlement of industrial disputes and this impliedly incorporates the just and equitable concept into the sphere of industrial law by discouraging the parties from making unjust and inequitable demands and denying just and equitable demands unjustly and inequitably.

Chapter 4, explains that the reliefs provided by the Industrial Disputes Act *per se* equitable reliefs and that the Labour Courts apply the just and equitable concept to the



facts and circumstances of each case in deciding the appropriate reliefs and the quantum of such reliefs.

Chapter 5 deals with the legal framework established by the judicial decisions for the exercise of discretion in making just and equitable decisions.

Chapter 6 is the concluding chapter and in this chapter, suggestions are made to enhance the effectiveness of the just and equitable settlement of industrial disputes.
