

Matter of Cady v. County of Broome

87 A.D.2d 964 (1982)

In the Matter of Gerald Cady, Respondent,
v.
County of Broome et al., Appellants

Appellate Division of the Supreme Court of the State of New York, Third Department.

April 29, 1982

Main, J. P., Casey, Yesawich, Jr., Weiss and Levine, JJ., concur.

Petitioner, a Deputy Sheriff employed by respondents, was injured in the performance of his duties prior to the effective date of the amendment and remains disabled from such injuries. Special Term held that petitioner was entitled to the benefits of section 207-c, as amended, and this appeal ensued. The issue framed by petitioner is not whether Deputy Sheriffs were entitled to the benefits of section 207-c as originally enacted,^[1] but rather, the sole issue is whether petitioner is entitled to the benefits of section 207-c by virtue of the amendment to that statute effected by chapter 727 of the Laws of 1980, which would require a retroactive application of the statute. Legislation is generally construed as prospective only unless the language of the statute, either expressly or by necessary implication, requires retroactive application (*Matter of Parkchester Apts. Co. v Lefkowitz*, 51 AD2d 277, 281, affd 41 N.Y.2d 987). There is an exception to this general rule for remedial statutes, which can be given retrospective application to the extent that it does not impair vested rights (*Cook v City of Binghamton*, 67 AD2d 469, 471, 472, mod on other grounds 48 N.Y.2d 323). "Remedial statutes are those `designed to correct imperfections in prior law, by generally giving relief to the aggrieved party'" (*Coffman v Coffman*, 60 AD2d 181, 188). While this exception does not apply to statutes creating new rights and remedies where none previously existed (*Jacobus v Colgate*, 217 N.Y. 235), where, as here, the amendment is enacted to rectify an inequity by extending existing benefits to a class of persons arbitrarily denied those benefits by the original legislation,^[2] the amendment is remedial and should be applied retrospectively (*Matter of Busch v Austin Co.*, 37 AD2d 648). We also note that chapter 727 of the Laws of 1980 was made effective immediately, rather than having a postponed effective date which would have furnished "critical and clear indicia of [legislative] intent" that the statute was to have prospective effect only (*Matter of Deutsch v Catherwood*, 31 N.Y.2d 487). The judgment should be affirmed.

Judgment affirmed, with costs.

[1] Both the Comptroller and the Attorney-General have concluded that Deputy Sheriffs were not covered by the original legislation (see 19 Opns St Comp, 1963, p 387; 1976 Opns Atty Gen 254).

[2] The various memoranda and other documents filed in support of the legislation indicate that one purpose of chapter 727 of the Laws of 1980 was to cure the inequity created by the interpretation of the original legislation which drew a distinction between city, town and village police officers and Deputy Sheriffs whose duties were similar and whose chances of injury in the line of duty were similar.